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COMMISSION ON HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE 48th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 13 April 2000, at 9 p.m.

Chairperson: Mr. Rodríguez Cedeño (Venezuela)

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GE.00-15686 (E)

The meeting was called to order at 9.05 p.m.

SPECIFIC GROUPS AND INDIVIDUALS:

(a) MIGRANT WORKERS

(b) MINORITIES

(c) MASS EXODUSES AND DISPLACED PERSONS

(d) OTHER VULNERABLE GROUPS AND INDIVIDUALS

(agenda item 14) (continued) (E/CN.4/2000/76-79, 80 and Add.1, 81, 82, 83 and Add.1 and 2, 138; E/CN.4/2000/NGO/15, 22, 31, 47 and 58; E/CN.5/2000/3; A/54/303 and 348; E/CN.4/Sub.2/1999/21)

1. Ms. SAITO (Asian Women's Human Rights Council), speaking also on behalf of the Korean Group of Former Internees in Siberia and the All-Japanese Association of Former Internees, appealed to the members of the Commission to take action to defend the rights of Japanese veterans taken prisoner during the Second World War. Japan had a moral and legal responsibility to compensate the victims of its aggression, yet the Japanese Government had so far refused to provide compensation to former prisoners of war for their period of forced labour in Siberia, although it had made concessions to prisoners from other regions.

2. The veterans had sued the Japanese Government in 1981 for compensation and had eventually been issued with labour certificates by the Russian Government, as requested by the court, but their appeal had been rejected. The question of compensation did, however, have international ramifications, as the victims included Koreans and Chinese from Korea conscripted by the Japanese Imperial Army, and it was hoped the case would be concluded within the lifetime of those prisoners of war who were still alive. She therefore called upon the Commission to investigate the violation of the rights of the Siberian prisoners of war, and to make recommendations regarding their compensation.

3. Mr. SARAF (World Muslim Congress) said that India was making a deliberate effort to depict the Kashmiri freedom struggle as fundamentalist and terrorist, mentioning repeatedly in that connection the so-called expulsion of Pandits from Kashmir by the freedom fighters, and it was time to put the record straight once and for all.

4. According to a book by Mr. Sumantra Bose, a noted Indian author, concerning the expulsion, the allegations made were largely a potpourri of fabrication and exaggeration. It was simply impossible for a community with a population of less than 140,000 to have generated the hundreds of thousands of refugees usually quoted, particularly as a sizeable Pandit population continued to live in Kashmiri towns and villages. The respect that Kashmiri Muslims had customarily shown towards Hindu places of worship had, for the most part, endured during the current troubled times, and appeals in the newspapers requesting the Pandits to return warned Muslims against tampering with any property belonging to the Pandits. There was an almost universal conviction among Kashmiri Muslims that the departure of such a large number of

Pandits within such a short period of time had been instigated by the then Governor, Jagmohan, who had taken office for four particularly repressive months in early 1990. Pressure had then been brought to bear and incentives allegedly offered to encourage those people to leave.

5. Hindu, Muslim and Sikh neighbours were united in their resentment of the Indian occupation forces, and the displacement of the Kashmiri Muslims and Pandits should be seen in its proper context as part of the continuing tragedy that had overwhelmed the whole of Kashmir since 1990.

6. Ms. SHAH (Muslim World League) said that although the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities had created obligations for States to promote equal treatment, it had not quite achieved the objective of ensuring that all persons were able to live according to their cultural, social, ethnic or religious principles. Discrimination against minorities in India was an impediment to the implementation of the International Covenant on Civil and Political Rights. With the rise of the extreme right in India, efforts were being made to impose the will of the majority Hindu population on all minorities in the country; as a result, non-Hindus would remain subordinate to the Hindu nation and deprived of citizen's rights unless they adopted the Hindu culture, language and religion.

7. While the safety of the Christian community in India was a cause of concern, the Muslims, India's largest minority, also continued to suffer from poverty, backwardness and illiteracy, with many being massacred in communal riots. Muslims made up 12.6 per cent of India's total population, but their representation in Parliament, State legislatures and administrative services did not reflect that proportion. The percentage of Muslims in the civil and foreign service was almost negligible, and there was a huge disparity between the Hindu majority and Muslim minority in educational institutions.

8. The effective implementation of the 1992 Declaration was essential for the full promotion and protection of human rights, and all States must be made accountable on the basis of the standards provided for in that Declaration. The Commission could not and should not allow such blatant violations to continue.

9. Mr. WARIKOO (Himalayan Research and Cultural Foundation) said that the problem of internal displacement was an enormous human rights challenge, with the number of internally displaced persons currently exceeding 25 million. Although he appreciated the contribution made by the Representative of the Secretary-General on Internally Displaced Persons towards a better knowledge of the problems of internal displacement in various countries of Asia, Africa and Latin America, it appeared that the problems specific to South and Central Asia, where violence against indigenous ethnic and religious minorities had lead to the displacement of thousands of innocent people, had been dealt with in a casual manner in the representative's reports.

10. The forced displacement of the entire Kashmiri Pandit indigenous minority was a classic case of ethnic-religious cleansing with long-term implications for the socio-cultural environment and secular polity in Kashmir. That community, currently in its eleventh year of displacement, had suffered considerable social, psychological and physical harm, due in large part to the loss of

its own territory, cultural heritage and identity. The peoples living near the line of control in Jammu and other areas had faced severe shelling from across the border and had been forced to flee from their homes and live in tents, as minority communities had been ruthlessly displaced.

11. Such violent attempts to re-draw territorial boundaries on the basis of religious extremist identities, ethnic cleansing and the brutal eviction of minorities had become the major cause of forced human displacement in parts of South and Central Asia. Urgent steps should be taken to define the precise legal status of such displaced persons with a view to facilitating an appropriate humanitarian response. The restoration of the displaced persons' homeland, ensuring dignity and freedom of religion, was a prerequisite for peace and security in the region.

12. Mr. GURUNG (World Federation of Democratic Youth) recalled that the Gurkhas were Nepalese nationals, who had been employed as soldiers by the British military since 1816. Approximately 3,000 were currently serving in the British Army, half of whom were actively engaged in United Nations peacekeeping missions in Bosnia and Herzegovina and in East Timor. But despite the sacrifices they had made and the services they provided, the Gurkhas were blatantly and persistently discriminated against by the British Army on account of their national origin. The most obvious example of such discrimination was at the economic level, in terms of pensions, redundancy payments, compensation for widows and divisive pay and promotion structures. They were also subject to religious discrimination, with the Hindu religion being imposed upon them although the majority of Gurkhas were followers of Buddhism, and they were not allowed the company of their spouses and children - a right granted to their British counterparts, who were also paid special benefits in the event of separation.

13. In 1999, the Nepali Parliament had concluded that the British Armed Forces' treatment of the Gurkhas was a flagrant violation of human rights based on nationality, and he called upon the Commission on Human Rights, and the Working Group on Minorities to take a bold stand against the British Government and to address the plight faced by the Gurkha soldiers of Nepal and their descendants.

14. Ms. BAUTISTA (Latin American Federation of Associations of Relatives of Detained-Disappeared Persons (FEDEFAM)) said that the Federation was deeply concerned about the rising tide of forced disappearances and grave violations of human rights and international humanitarian law in Colombia, and the increasing number of forced displacements over the past year. The poor rural population, including women and children, were the most affected. A primary cause of the displacements in Colombia, as the Representative of the Secretary-General on Internally Displaced Persons had indicated, was a deliberate strategy to "cleanse" regions of populations suspected of being sympathetic to armed opposition groups. Crimes were being carried out with such ferocity that people had no alternative but to flee. Impunity was another factor in the rapid increase in forced displacements, with countless orders for the capture of members and leaders of the paramilitary groups remaining unfulfilled. The victims often suffered a double violation: not only were they denied their civil, political, cultural, economic and social rights, but they were often forced to flee because of the forced disappearance of relatives and friends.

15. Although there were fewer forced displacements in Mexico, the situation there was also a matter for great concern, particularly as those affected again came from the poorest sectors of

society. Regrettably, the lack of legislative and political measures, and especially the continued militarization of indigenous and rural areas, were not conducive to any improvement in the situation. A further case was Guatemala, where the continuing difficulties faced by displaced persons, often the victims of State officials and paramilitary groups, remained a problem that had not been adequately dealt with by the Guatemalan authorities, and that should be addressed along the lines of the MINUGUA recommendations (United Nations Mission for the Verification of Human Rights in Guatemala).

16. In view of the lack of political will on the part of the States concerned, the international community should take decisive action regarding the legacies of the past and the problems of the present.

17. Ms. PHYU (International Peace Bureau) said that, while she welcomed the mandate of the Representative of the Secretary-General on Internally Displaced Persons (IDPs), and the work he had accomplished, there was still a long way to go to address those issues adequately. Although in her own country, Burma, there were approximately 2 million IDPs, more than half of whom belonged to ethnic minorities, their existence was denied by the ruling State Peace and Development Council (SPDC). The IDPs had been considered as enemies of the military after their rejection of the relocation sites they had been allocated. Their cities, lives, crops and belongings were systematically destroyed by fire, and landmines were planted where they hid their food. The situation they faced was one of the worst of any IDPs in the world and in one attack alone, on 1 April 2000, more than 4,000 had been forced to cross the border and take refuge in Thailand.

18. The Commission should call upon the SPDC to stop its atrocities against the internally displaced persons and respect and protect their human rights. Furthermore, since political change in Burma was required in order to address the social problems of that group, the SPDC should enter immediately into dialogue with the National League for Democracy and with the leaders of ethnic nationalities.

19. Ms. THI (Worldview International Foundation) said that members of certain minority groups automatically became targets of governments and were subject to many forms of discrimination. In Burma, for example, the minorities suffered several forms of social and cultural injustice in connection with the human rights violations sponsored or conducted by the SPDC. Ethnic nationalities were suffering all kinds of repression, such as a ban on the teaching of ethnic languages, which made it very difficult to pass on a cultural heritage to future generations. Minorities among minorities, such as religious groups, were also being persecuted. With regard to the situation of women in Burma, the Committee of Experts monitoring the Convention on the Elimination of All Forms of Discrimination against Women had requested the SPDC to include in its next report more information on the situation of women in as many ethnic minority groups as possible, and on the measures taken by the Government to protect and ensure their human rights under the Convention.

20. The fact that people belonged to minority groups did not give the ruling regime or Government the right to violate their human rights. The Universal Declaration of Human Rights would mean nothing to minorities unless their potential was fully recognized and their human

rights were respected. She therefore appealed to the Commission to question the violations of the human rights of minorities in countries like Burma, and to make Governments or ruling regimes accountable for any such violations.

21. Mr. SIDDIQUI (Asian Buddhist Conference for Peace) said that unity in diversity of cultures, ethnicity and language were of primary importance for the promotion of democracy. However, in Pakistan, the Mohajirs, the largest ethno-linguistic minority, were being subjected to repression, discrimination and isolation, having become the victims of the arrogance and hegemony of Punjabi leaders. The ruling apparatus of Pakistan, in which the Mohajirs hardly had any say, had devised means of contravening established human rights laws, practices and norms: for example, in 1999, the census figures had been manipulated to show the Mohajir population to be half of what it actually was.

22. His organization recommended that the Government of Pakistan cease its policy of repression, oppression and persecution of the Mohajir and Sindhi nations with immediate effect, withdraw the Punjabi forces and return to true democracy. Corrupt feudal and military rule in Pakistan should be ended and full autonomy granted to all the minority provinces. Political prisoners should be granted due process of law and the Sindhi issue should be resolved through meaningful and sincere dialogue.

23. Mr. CANNY (International Catholic Migration Commission), speaking on behalf of the Steering Committee of the Global Campaign for Ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, welcomed the increasing attention being given to the protection of the human rights of migrants. All the Global Campaign's member organizations had begun to provide the Special Rapporteur on the human rights of migrants with material to assist her in fulfilling her mandate, and a particular effort was being made to gather reports on specific cases in different regions of the world.

24. The Steering Committee was a unique alliance of concerned international inter-governmental and non-governmental organizations that had been formed to promote the entry into force of the 1990 Convention. Given the deterioration in the treatment of migrants and other foreigners in numerous places in the world, there was a more urgent need than ever for the wider adoption of the instrument protecting migrants, who were particularly at risk as they did not enjoy the same protection as the nationals of the countries they lived in. The Steering Committee was frustrated by the slow pace of ratification and the lack of resources made available to promote and monitor respect for the human rights of migrants. Those rights were furthered not only through legal standards, but also through other means, including political and educational institutions and the media.

25. The Steering Committee therefore welcomed the proposal by the working group of intergovernmental experts on the human rights of migrants to designate 18 December as International Migrants Day. It also attached great importance to the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which would offer an unprecedented opportunity to combat discrimination and promote equitable treatment for all.

26. Mr. SUN Zhonghua (China Disabled Persons' Federation) noted that less and less importance had been paid to disability by the United Nations and some Member States since the United Nations Decade of Disabled Persons had ended in 1992. Disabled persons were a very vulnerable group and the problem of marginalization had still to be addressed. While the Standard Rules on the Equalization of Opportunities for Persons with Disabilities were to be welcomed, as were the Special Rapporteur's efforts in that connection, the Rules were not binding, and an international convention was needed to protect the rights of persons with disabilities. At the world NGO Summit on Disability held earlier in the year, the United Nations had been strongly urged to take steps in that regard. However, during the discussions regarding a resolution on disability at the thirty-eighth session of the Commission for Social Development, the representative of the United States had taken a surprising stance, repeatedly opposing the inclusion of wording to request the Special Rapporteur to explore further the possibility of a convention.

27. According to statistics, more than 650 new cases of mental illness in China had been caused by the practice of Falun Gong, a source of serious concern to his organization. The head of the Falun Gong cult violated human rights by engaging in mind control, and the China Disabled Persons' Federation had been surprised to find that such a cult had been used as an excuse to attack the human rights situation in China.

28. Mr. ALI KHAN (World Federation of Trade Unions) said that the condition of minorities in States founded and run in the name of a religion was often becoming unbearable in the modern world. Pakistan, for example, was becoming an increasingly closed, inward-looking State, where anyone outside of the Muslim mainstream was treated as a second class citizen. The plight of its Ahmadi, Christian and Hindu people was continuing to worsen. Religious minorities were not permitted to vote as part of an integrated electorate, according to a system, that maintained the segregation of Muslims and non-Muslims and ensured that minorities remained without effective representation in the administration. Moreover, the upkeep of the Hindu shrines in Sind, where 96 per cent of Pakistan's 1.2 million Hindus were concentrated, was unsatisfactory, partly because of lack of funds, but largely because of encroachment by Muslims; a number of such shrines were believed to have been converted into mosques.

29. The Commission on Human Rights, in its resolution on minimum humanitarian standards (E/CN.4/1998/L.50), had recognized the desirability of identifying fundamental standards of humanity applicable in all situations. He trusted that Pakistan would undertake to implement its international commitments in that regard.

30. Mr. SAINI (International Institute for Peace) said that the real test of a State's commitment to human rights was to provide a safe existence for religious and cultural minorities. Unfortunately, many States were failing that test and were instead supporting religious fundamentalism and extremism, making minorities as well as secular-minded citizens vulnerable, particularly as fundamentalism often encouraged terrorism. Although fundamentalism was by no means confined to Islam, those engaged in the jihad presented a serious threat to minorities. Islam was a religion of compassion, justice and equality, yet it had been projected by self-styled leaders and warlords as an emblem of defiance, intolerance and

crude militancy. War against fundamentalism and extremism could not be waged in isolation. The only way for the international community to contain the Islamist's threat and protect minorities was by giving greater powers to the human rights mechanisms of the United Nations.

31. Mr. GILANI (World Society of Victimology) recalled that, in connection with its consideration of human rights situations that caused or threatened to cause mass exoduses or displacements, the United Nations had instructed India and Pakistan to ensure that all citizens of Kashmir should be free to return, and to exercise all their rights as citizens. Unfortunately, those two nations had failed in their obligation towards five generations of refugees and it was ironic that since 1990 the trouble in Jammu and Kashmir had affected all communities, causing the loss of homes and many displacements.

32. The Commission should request the Representative of the Secretary-General on Internally Displaced Persons to respond to the displacements in Jammu and Kashmir. In the light of India's and Pakistan's obligations the Commission should also request the Secretary-General and the High Commissioner for Human Rights to ensure that the two United Nations commissions composed of nominees from India and Pakistan respectively were established to deal with the situation of displaced persons in Kashmir. Furthermore, India and Pakistan should be encouraged and assisted to take tangible steps to alleviate the suffering of the people of Kashmir. In order to arrest the stream of displacement, it was important for Kashmiri citizens to be involved in the conduct of public affairs. The United Nations had a role to play in ensuring that a Government comprising the principal political elements in Kashmir should take all possible measures to make it known that peace, law and order would be safeguarded.

33. Mr. LITTMAN (Association of World Citizens) said that the ancient Jewish community of the Islamic Republic of Iran was in grave danger of destruction as a religious group. Thirteen Jews accused of espionage were currently awaiting a trial that had recently been postponed once again, and although eight Muslims were also facing the same charges, no outside observers or lawyers were permitted. Furthermore, 10 of the Jews had not had any access to lawyers since their arrest, despite the fact that under Islamic law, protected minorities were supposed to be granted civil rights and freedom from persecution. In a time of change and public debate on the nature and aims of the Islamic Republic of Iran, he called on the Commission to act upon its resolution E/CN.4/RES/1999/13 on the situation of human rights in the Islamic Republic of Iran in order to improve the situation of minorities in that country, and particularly that of the Jews.

INDIGENOUS ISSUES (agenda item 15) (E/CN.4/2000/84-86; E/CN.4/2000/NGO/11, 16, 37, 39, 83, 100, 120 and 128; A/54/487 and Add.1; E/CN.4/Sub.2/1999/18-20; E/CN.4/Sub.2/AC.4/1999/4 and 6)

34. Mr. WILLE (Chairperson-Rapporteur of the open-ended inter-sessional ad hoc working group on a permanent forum for indigenous people), introducing his report (E/CN.4/2000/86), recalled that the mandate of the working group, as contained in Commission on Human Rights resolution 1999/52, was to submit one or more concrete proposals on the establishment of a permanent forum for consideration by the Commission at its current session. The working group's second session, which had been held from 14 to 23 February had been conducted in an open and constructive spirit. There had been broad support for the working group to recommend

the establishment of a forum for indigenous peoples as a subsidiary body of the Economic and Social Council. There were, however, differing views regarding the name of the forum; indigenous participants proposed "permanent forum for indigenous peoples", while some Governments preferred "permanent forum on indigenous issues".

35. There had been support for the idea that the forum should have a mandate to discuss indigenous issues addressed by the Economic and Social Council and the themes of the International Decade of the World's Indigenous People. Representatives had expressed the view that the forum should be an advisory body with members serving in their personal capacity and should promote coordination of the United Nations activities relating to indigenous issues. Membership should be divided equally between government nominees and indigenous representatives, although there were differing views on how the latter were to be selected. There was broad agreement that the forum should be financed from the Regular Budget of the United Nations and that voluntary contributions should also be sought. Further discussion was required on some issues, such as the size of the forum, the length of its annual sessions and its rules of procedure.

36. The establishment of a permanent forum for indigenous peoples would not only fulfil one of the goals of the International Decade of the World's Indigenous People, but would also add worth to the work of the United Nations and provide a welcome opportunity for Governments, indigenous peoples and the United Nations specialized agencies to work together.

37. Mr. CHAVEZ (Chairperson-Rapporteur of the working group established in accordance with Commission on Human Rights resolution 1995/32), introducing his report (E/CN.4/2000/84), pointed out that the terms "indigenous peoples" and "indigenous populations" had been used synonymously in the text without prejudice to the different views expressed concerning those terms. The session had taken place in a more positive atmosphere than in the past, and the frank and open discussions had initially focused on draft articles 15-18. Views on those draft articles differed, and Annexes I and II of the report contained proposals submitted for future discussion by Governments and indigenous representatives respectively, the latter proposals being consistent with the draft text used as a basis for the group's work. Although it had not been possible to adopt formally any of those articles, much progress had been made in the discussions, thanks partly to greater participation by Government delegations. The experience gained should serve as a basis for the organization of future work.

38. It appeared advisable for the future, however, to leave consideration of draft articles 15-18, on which as much progress as possible had been made, and to concentrate on other articles that had been considered on a preliminary basis in previous sessions. Participants should remain in contact prior to the next session in order to exchange views and for the session to be successful, participants should bear in mind the need to maintain a constructive approach. Any specific suggestions for improving the original draft texts would be welcome with a view to reaching a genuine consensus. Efforts should be intensified to ensure that as many Governments and indigenous representatives as possible participated in the working group, and Governments and non-governmental organizations should act to ensure the attendance of a high number of indigenous representatives, in particular by supporting the Voluntary Fund for the International Decade of the World's Indigenous People.

39. Ms. TAULI-CORPUZ (Chairperson, Board of Trustees, United Nations Voluntary Fund for Indigenous Populations), noting that the latest information concerning the Fund was contained in documents A/54/487 and Add.1, and E/CN.4/AC.4/1999/6, said that thanks to the donations to the Fund, it had been possible to help indigenous representatives to participate in the working group on indigenous populations, the working group on the draft declaration on the rights of indigenous peoples, and in the working group on the establishment of a permanent forum. In 1999, a total of 90 travel grants had been approved to enable indigenous representatives to attend meetings and another 34 in 2000, with a further 160 applications under consideration. The presence and active participation of indigenous persons in the Commission's bodies dealing with indigenous issues had created a healthy environment for dialogue between governments and indigenous peoples - the first step towards the achievement of justice and development for peoples long oppressed and marginalized. Donors were to be thanked for their support, which had made it possible to cover expenditure for 2000. New contributions of approximately US$ 600,000 would be needed to cover expenditure planned for 2001.

40. Mr. DODSON (Chairperson, Advisory Group, United Nations Voluntary Fund for the International Decade of the World's Indigenous People), noting that detailed information on the Fund's situation could be found in documents E/CN.4/Sub.2/AC.4/1999/4, A/54/487 and E/CN.4/2000/85, announced that the Fund had been able to double the number of projects financed from 12 in 1997 to 24 in 1999. In accordance with Commission on Human Rights resolution 1997/32, it had also financed the organization of a workshop on higher education and indigenous peoples in Costa Rica in 1999. At its current session, the group was analysing 60 projects received from indigenous communities and organizations and would be making recommendations for approval of project grants up to a total of US$ 150,000. Taking into account all contributions and pledges, it was hoped the Fund would have sufficient resources to cover all its activities for the current year, which included a second workshop for indigenous journalists, two sub-regional seminars in Africa on indigenous issues, and a two-day workshop on indigenous children.

41. Mr. SFEIR-YOUNIS (Observer for the World Bank) said that the World Bank was assisting many countries to improve the welfare of their indigenous peoples. Having recognized the importance of cultural sustainability, the World Bank had developed a safeguard policy for all the projects it financed. That policy sought to ensure that any project relating to indigenous peoples had to be linked to development and poverty reduction; that legal measures were taken to protect the rights of indigenous peoples to their land, cultural, religious and sacred values and use of natural resources; that indigenous peoples were fully informed of the potential impact of any project involving their land and were consulted prior to any such project; and that the knowledge and culture of indigenous peoples was respected.

42. The establishment of a permanent forum for indigenous peoples within the framework of the Economic and Social Council would be a major step forward. It would be a mistake not to embrace the knowledge of indigenous peoples for the creation of a sustainable, integrated and global society. Indigenous peoples would contribute actively to the discussions, and the forum might be the only place where such persons could participate in deliberations at international level. It was essential to reconcile progress with the fundamental notions of life on earth as

portrayed in the societies of indigenous peoples. Indigenous cultures, their societies and knowledge were central to the Bank's efforts on social inclusion, and the Commission's support was central to the success of the Bank's mission.

43. Mr. BELIZ (Observer for Panama), speaking on behalf of the Central American Group, said that the countries of that Group attached great importance to indigenous issues, in view of their multi-ethnic background. At the regional level, efforts were being made to increase the participation of indigenous peoples in all areas of society and to recognize their identities and cultures. At the international level, the establishment of a permanent forum for indigenous peoples was essential to facilitate the participation of indigenous peoples in the United Nations system. The mandate of the ad hoc working group should be revised once the forum had been set up to enable it to continue to function. The development of standards to protect the rights of indigenous peoples was fundamental to those populations, and the Central American Group was an active participant in the working group established to elaborate a draft declaration on the rights of indigenous peoples. The international community was urged to continue to provide financial support to the Voluntary Fund for Indigenous Populations. Meanwhile, Panama itself remained firmly committed to the effective integration of indigenous peoples and to the full recognition of their rights.

44. Mr. RAJA NUSHIRWAN (Observer for Malaysia), emphasizing the importance his country attached to indigenous issues, said that Malaysia's own indigenous peoples had regained their self-esteem and were progressive enough to embrace the future while respecting the past. Although progress had been made, his country was concerned that the discussions on a draft declaration on the rights of indigenous peoples had not yet been completed, and substantive progress should be achieved in the forthcoming discussions in order to justify the costs incurred. In that connection, it was essential to establish whether the draft declaration was to constitute a standard to be worked towards, or a minimum standard to be applied, since it should not seek to do both. Also, it was important to decide whether the draft should be adopted unchanged or with modifications. The issue of definitions should not stand in the way of progress on other articles, and Malaysia would be prepared to accept draft article 3 on self-determination as it was currently worded.

45. It was regrettable that more progress had not been made on the establishment of a permanent forum. The working group established should not discuss issues that were not directly related to the question at hand. The mandate of the forum should be such as to enable it to consider issues addressed during the International Decade of the World's Indigenous People, such as human rights, environment, health and education. Also, the method of selecting indigenous representatives and the mechanisms to be used to pass information on to the indigenous peoples should be the subject of further discussion.

46. Ms. SOOVALI (Observer for Estonia) said that the rights of indigenous peoples continued to be at risk in many parts of the world, and Estonia welcomed the growing consensus on the need to establish a forum for indigenous peoples that would contribute significantly to achieving the objectives of the International Decade of the World's Indigenous Peoples. It also welcomed the spirit of compromise that had prevailed in the working group's deliberations. The forum should be able to discuss all issues affecting indigenous peoples, carry out studies, make recommendations to the Economic and Social Council, promote coordination of the activities

related to indigenous issues within the United Nations system, and define development strategies for indigenous peoples. She hoped that the permanent forum could be established as a subsidiary body of the Council during the International Decade of the World's Indigenous Peoples as a means of furthering the objectives of the Decade in partnership between Governments and indigenous representatives.

47. Mr. FARRELL (Observer for New Zealand) said that a major priority of the new Government in New Zealand was to close the gap between Maori and non-Maori and to provide greater opportunity for Maori development; a cabinet committee chaired by the Prime Minister herself had been set up for that purpose. The Treaty of Waitangi, the founding document of the New Zealand nation State, continued to guide both the Maori and the Government in their dealings with one another. The Government had made significant progress in settling claims arising from historical breaches of that Treaty, and redress totalling more than $NZ 500 million had been provided to date. Furthermore, in celebration of the International Decade of the World's Indigenous Populations, the New Zealand Government had established a decade fund focusing on projects promoting the development of the Maori language. It had also reviewed its position on ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and was considering the implications of ratification.

48. At the international level, New Zealand contributed regularly to United Nations voluntary funds and to the Indigenous People's Centre for Documentation, Research and Funding. Although progress on the draft declaration on the rights of indigenous peoples had been slow, New Zealand had been encouraged by the increasing level of participation by States and the more open dialogue between States and indigenous representatives, and it called on all participants to intensify their negotiating efforts in good faith. It had also been encouraged by the progress made on the issue of a permanent forum for indigenous peoples, and strongly hoped that the Commission on Human Rights would endorse the principle of establishing such a forum at its current session. At the midpoint of the International Decade of the World's Indigenous Peoples, much had been accomplished, but there was still much to be done to achieve the objectives of strengthening international cooperation to solve the problems faced by indigenous peoples, a goal to which New Zealand was firmly committed.

49. Mr. LEHMANN (Observer for Denmark), speaking on behalf of the Nordic countries, commended the United Nations High Commissioner for Human Rights for her constructive work as coordinator of the International Decade of the World's Indigenous Peoples. The activities undertaken thus far within the framework of the Decade had served to increase awareness of the specific problems encountered by indigenous peoples and the need for solutions at the national, regional and global level. The voluntary funds established had enabled indigenous representatives to attend United Nations meetings on indigenous issues, thereby furthering dialogue with governments, and should be actively supported.

50. It was to be hoped that concrete results on issues such as the establishment of a permanent forum for indigenous peoples within the United Nations system and the drafting of a declaration on the rights of indigenous peoples could be achieved before the end of the International Decade. The recent meetings of the ad hoc working group on a permanent forum had been very constructive and a point had now been reached where concrete action could be

considered. With regard to the declaration, it was important to build on the consensus emerging among Governments and indigenous peoples in the working group by accommodating the reasonable concerns of interested parties, while at the same time respecting the spirit of the draft declaration.

51. Mr. ZOZULIA (Observer for Ukraine), said that the adoption of a draft declaration on the rights of indigenous peoples and the establishment of a permanent forum for indigenous peoples were two key objectives of the International Decade. Ukraine had always recognized the need for the classification of ethnic groups to facilitate national policies protecting the rights of national minorities and indigenous peoples. The draft declaration on the rights of indigenous peoples should distinguish between at least two categories of indigenous entities: those leading an isolated, tribal way of life and those integrated with the rest of society. Ukraine fully agreed that use of the term "peoples" in the declaration would have no implications regarding the right of self-determination or any other rights that might be attributed to that term under international law. The draft declaration should include provisions to prohibit any actions designed to impair the territorial integrity, political unity and stability of sovereign States, and the working group on the draft declaration should avoid excessive politicization in its future work.

52. One of the most urgent tasks awaiting the Ukrainian Government was to ensure the peaceful return of those forcibly deported from Ukraine over 50 years ago and their integration into society, without infringing on the rights of the country's existing residents. His delegation finally noted the activities of the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights in searching for peaceful solutions to situations involving indigenous peoples.

53. Mr. ALFRED (Observer for South Africa) said that South Africa was embarking upon systematic consultative accommodation of its indigenous peoples. The new post-apartheid Constitution extended equal rights to all citizens, and specific steps were being taken to promote indigenous languages. It also provided for the establishment of a statutory commission for the promotion and protection of the rights of cultural, religious and linguistic communities. Practical measures including land restitution and compensation to indigenous communities were being implemented by the South African Government to give effect to the new legislative provisions.

54. At the international level, South Africa hoped to contribute increasingly to the progressive and constructive consideration of indigenous issues within the United Nations system. It supported the efforts being made on the draft declaration on the rights of indigenous peoples and on the establishment of a permanent forum for such peoples, as both initiatives were important to ensure that the principles of human rights were universally applied and that the fundamental rights and freedoms of indigenous populations were recognized and protected. It also looked forward to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which would offer an ideal opportunity to highlight the impact of racial discrimination on indigenous peoples and the legacy of marginalization and discrimination they faced.

55. Mr. FOUX (Observer for Switzerland) said that Switzerland hoped that tangible results would be achieved in the near future on the draft declaration on the rights of indigenous peoples, since the only universal instrument affording them protection was the ILO Indigenous and Tribal

Peoples Convention, 1989 (No. 169), the principles of which had recently been incorporated into the Swiss cooperation for development programme. A permanent forum for indigenous peoples under the auspices of the Economic and Social Council would enable representatives of Governments and indigenous peoples to discuss matters such as sustainable development and the rights of indigenous communities, and would help to coordinate activities concerning indigenous issues carried out in the United Nations system. Geneva would provide an ideal location for the permanent forum in view of the large number of organizations there dealing with indigenous issues and Switzerland would continue to assist indigenous representatives to attend meetings in Geneva. It hoped that the permanent forum would soon become a reality, and would be prepared to make a practical contribution to enable the forum to begin its work as soon as possible.

56. Ms. CASSAM (United Nations Educational, Scientific and Cultural Organization) said that UNESCO had always demanded the right of indigenous peoples to human dignity and had always recognized the value and diversity of indigenous cultures. Her organization was endeavouring to raise awareness of the problems faced by indigenous peoples, such as marginalization and the abuse of their most basic human rights, and to encourage those people to defend themselves. Its work included a programme for recognition of indigenous languages throughout the world and a study of the internal migrations of indigenous peoples in five Latin American countries and their impact on educational demands in large populated areas.

57. UNESCO was undertaking work to promote the human rights of indigenous peoples by, inter alia, campaigning against discrimination affecting vulnerable groups. In addition, it was actively involved in work to recognize the value of the knowledge of indigenous peoples, and its programme "Man and the Biosphere" was focusing on areas that included natural resources, the rights of indigenous peoples and biosphere reserves. It aimed to support the emergence of indigenous cultural identities and to protect their heritage. In its view, there was no contradiction between modern living and respect for the traditions of the past. Accordingly, it was feasible to seek the broadest possible access for indigenous peoples to new technologies while preserving and disseminating their traditional knowledge. Such knowledge was not only a heritage of the past; it also offered solutions for the future, particularly in the medical and pharmaceutical fields, and would help to redefine man's relationship with nature. UNESCO was looking forward impatiently to the establishment of a permanent forum for indigenous peoples.

The meeting rose at 11.45 p.m.

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Fifty-sixth session

SUMMARY RECORD OF THE 49th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 April 2000, at 10 a.m.

Chairperson: Mr. SIMKHADA (Nepal)

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GE.00-12978 (E)

The meeting was called to order at 10.05 a.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/2000/11 and 117)

1. Mrs. ROBINSON (United Nations High Commissioner for Human Rights), introducing the report on the activities of her Office in Colombia (E/CN.4/2000/11), said that the already grave human rights situation in Colombia was deteriorating. While the challenge of re-establishing peace in the face of insurrection, paramilitary formations, widespread lawlessness and drug trafficking was a daunting one, she encouraged the Government to strive for the restoration of peace with respect for human rights.

2. The international community must insist that all parties cooperate in the search for peaceful solutions through negotiations based on respect for human rights, including economic, social and cultural rights, and for humanitarian law, and should condemn those that did not.

3. Since the report was issued, the Office for Internal Oversight Services had published its evaluation of the Colombia Office. Its findings showed, inter alia, that the Office was widely recognized as rendering valuable service in a difficult situation; that it had succeeded in communicating its presence throughout Colombian society; that it was well run and well administered; that it could extend its activities to parts of Colombia not yet covered owing to lack of staff; and that constructive and useful cooperation was taking place between the Office and government departments.

4. During 1999, Colombia, under President Pastrana's leadership and commitment, had persevered in its search for a political solution to the internal armed conflict. She urged all parties to redouble their efforts to find a comprehensive agreement based on respect for international human rights and humanitarian law.

5. The deterioration in the human rights situation could be seen in the increasing number of allegations of extrajudicial executions, death threats, torture and enforced disappearances. The violations were attributed in most cases to paramilitary groups, but complaints had also been made against members of the armed forces and the police. There was an urgent need to address the problem of impunity.

6. Colombia had one of the largest populations of displaced persons in the world, a vast problem that had been recognized by the Commission and the Colombian Government. Even the measures adopted following the visit of the Representative of the Secretary-General on internally displaced persons had not prevented or reduced the phenomenon or provided adequate protection and assistance to the internally displaced.

7. Kidnapping, or "hostage-taking", by guerrilla groups had escalated, the chief victims being civilians and, increasingly, minors. The civilian population was increasingly also subject to indiscriminate attacks by guerrilla and paramilitary groups.

8. She welcomed the Government's decision to remove under 18-year-olds from the ranks; she deplored, however, the guerrilla groups' continuing recruitment of children to participate in

hostilities. She urged the authorities to act firmly to put an end to human rights violations by members of paramilitary groups and to establish appropriate new bodies so as to bring those responsible to justice. She also invited the Commission to urge the Colombian authorities to speed up the implementation of the international recommendations.

9. President Pastrana's "Policy for the promotion, respect and guarantee of human rights and application of international humanitarian law" was a valuable foundation for a response to the crisis. Her Office in Colombia was assisting the Office of the Vice-President in designing a national human rights action plan, in compliance with the Vienna Declaration.

10. Lastly, she expressed her thanks to the Governments that had made financial contributions to the Office in Colombia and invited them to renew and, if possible, increase their political and financial commitment.

11. Mr. REYES RODRIGUEZ (Colombia) said that his Government wished to reaffirm the importance it attached to the work of the OHCHR Office in Colombia. The renewal of the Agreement until April 2002 was an indication of that commitment.

12. Introducing his Government's reply to the High Commissioner's report (E/CN.4/2000/117), he said that it was in full agreement with the priorities and main concerns expressed therein. They were the basis for Colombia's "Policy for the promotion, respect and guarantee of human rights and application of international humanitarian law". The report was clearly intended as a contribution to the analysis of the situation and to the establishment of a basis from which to address the most serious problems affecting Colombians.

13. Nevertheless, certain aspects of the report did not accurately reflect the true situation. He drew attention in particular to the enormous amount of political will that had been needed to build confidence between all the parties in order to set the negotiation process in motion. He welcomed the High Commissioner's recognition of that in her introduction to the report.

14. At the recent Ministerial Meeting of the Movement of Non-Aligned Countries, the President of Colombia had stated that international humanitarian law was a fundamental factor in ensuring the continuation of the peace process. The Government's main aim was to promote the humanization of the internal conflict while attempting to stop it completely. None of the participants in the armed conflict was exempt from the obligation to observe international humanitarian law.

15. Like the armed conflict, the huge problem of drugs was a major structural factor in the situation in the country and, as the international community was certainly aware, had played a tragic role in the disruption of everyday life.

16. With regard to self-defence groups, he emphasized that the Government's policy was to fight them with all the means at its disposal. The Government strongly rejected any attempts to lay responsibility for their actions at its door. Any collaboration, acquiescence or tolerance of the activities of the self-defence groups on the part of State officials formed no part of any institutional or departmental policy.

17. Lastly, he outlined some of the most important steps the Government had taken in the last year in the search for a solution to the many problems faced: substantial progress had been made in the peace process; Colombia had actively participated in work on the draft optional protocols to the Convention on the Rights of the Child; it had initiated the agreement signed with the Office of the United Nations High Commissioner for Refugees (UNHCR) on assistance to internally displaced persons; it had ratified the Ottawa Convention on anti-personnel landmines; a national centre had been established to coordinate action against the self-defence groups; the Ministry for Internal Affairs witness protection programme had been allocated significant funds; the Economic and Social Policy Council had devised and approved a plan of action for the prevention of enforced displacement and some US$ 7 million had been spent on support activities for displaced persons. Moreover, in 1999, the Colombian Institute for Agrarian Reform had acquired US$ 3 million-worth of land for distribution to 400 displaced families.

18. Mr. MENDONÇA E MOURA (Portugal), speaking on behalf of the European Union and of the associated countries of Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, said that the Union welcomed the Colombian Government's readiness to give priority to the promotion and protection of human rights and its legal initiatives such as the reform of the military Penal Code, but urged it to ensure that such measures complied with international requirements and Colombian constitutional jurisprudence and to do more in terms of policy implementation. In particular the Union urged that the law on enforced disappearances be adopted without delay, that judicial and administrative steps be taken with regard to bodies or individuals suspected of collaborating with paramilitary groups, and that protection for human rights defenders and witnesses be strengthened.

19. The Union fully supported the Government's efforts to engage in peace talks with the guerrillas. The success of the peace plan was crucial to the improvement of the human rights and humanitarian situations and should be supported by all segments of society, including all the parties to the conflict.

20. The Union strongly condemned the atrocities and gross violations of international humanitarian law by paramilitary groups and guerrilla groups, especially those directed against civilians and children in particular. It also expressed its utmost concern at the growing number of internally displaced persons in Colombia.

21. Ms. BUCK (Canada) said that the single most important issue was the collaboration between some members of the Colombian armed forces and the illegal paramilitaries. Her Government was also deeply concerned at the abuses committed by the illegal armed groups, notably kidnapping and the recruitment of children, and at the plight of human rights activists, union leaders and judges. She called upon the Government of Colombia to provide adequate funding to implement the national human rights strategy.

22. Her delegation also called on all parties to follow up on the recommendations of the Secretary-General's Representatives on internally displaced persons and for Children and Armed Conflict. The ongoing displacement of civilians - in some instances a deliberate military tactic - was a cause for serious concern and her delegation applauded and supported the efforts of the International Committee of the Red Cross (ICRC) to protect and assist those displaced.

23. The Government bore primary responsibility for the safety and well-being of its citizens, however, and it must demonstrate its commitment to the displaced persons by adopting a comprehensive approach, including implementation of Act No. 387 and of the policy of the Economic and Social Policy Council (CONPES).

24. Ms. SCHERER (Amnesty International) said that, despite significant moves in recent months to advance peace talks between the Colombian Government and the main armed opposition groups, the armed conflict continued to escalate. Its principal victims were the civilians living in areas disputed between government forces, paramilitary organizations and armed opposition groups. The Government had persistently failed to fulfil its commitments to dismantle paramilitary groups which, frequently operating with the tacit or active support of the Colombian armed forces, continued to operate with impunity throughout the country.

25. Both the Colombian armed forces and the armed opposition groups were responsible for serious and persistent violations of human rights and international humanitarian law, including indiscriminate attacks that caused significant civilian casualties. While the Government had taken some measures to improve their protection, human rights defenders continued to be the victims of harassment and attack. Peace activists, trade unionists and journalists had also been targeted. Despite the efforts of the Colombian civilian justice system, impunity for human rights violations remained the norm and high-ranking members of the armed forces continued to be routinely shielded from justice by the military courts.

26. The Government had consistently failed to implement recommendations by the United Nations thematic mechanisms and the High Commissioner for Human Rights and had rejected laws passed by Congress designed to bring Colombian domestic legislation into line with international human rights standards. The High Commissioner's Office in Colombia had played an increasingly important role since its establishment in 1997, and her organization welcomed the extension of its mandate to 2002. However, if the Office was to fulfil that mandate effectively, it needed to be significantly strengthened.

27. The scale and severity of the human rights and humanitarian crisis in Colombia had not been adequately addressed by the international community. She therefore called upon the Commission to adopt a resolution reiterating its concern at the deepening human rights crisis in that country, to urge the Colombian Government to take immediate steps to implement in full all United Nations recommendations, to welcome the renewal of the mandate of the High Commissioner's Office, to strengthen that Office by the appointment of sufficient experts to fulfil its mandate effectively and to request the High Commissioner to submit her report on Colombia to the General Assembly.

28. Ms. PARDO (Franciscans International), speaking also on behalf of the International Commission of Jurists, International Federation of Human Rights Leagues, World Organization against Torture, Robert F. Kennedy Memorial, the Service Peace and Justice in Latin America and the International Service for Human Rights, said that, during the past year, the socio-political violence in Colombia had claimed an average of 12 victims a day. Displaced persons still lacked effective care and the authorities did not guarantee their safety, resettlement or return. Since

mid-1996, some 36 human rights defenders had been murdered and at least 30 had been forced into exile. The paramilitary groups allegedly responsible for most of those acts were reported to have close links with the Colombian armed forces.

29. In 1999, the armed opposition groups Revolutionary Armed Forces of Colombia (FARC), National Liberation Army (ELN) and Patriotic Liberation Army (EPL) had frequently violated international humanitarian law, using weapons with indiscriminate effects and kidnapping and murdering civilians. The armed forces likewise continued to violate international law. Officials of the Attorney-General's Office investigating serious human rights violations had been repeatedly threatened and many had been forced to leave the country.

30. Confronted with military allegations that the Attorney-General's Office and the Procurator-General's Office had been infiltrated by guerrilla groups, the Government had remained silent. The Constitutional Court judgement of 1997, ordering that members of the military and the police charged with human rights violations should be tried in civil courts, had still not been implemented. The new Military Penal Code would not solve the problem of impunity, since it did not remove gross human rights violations from the jurisdiction of the military courts; indeed, the President had objected to recently enacted human rights legislation on the grounds that it would remove the serious offences in question from military jurisdiction. The "faceless judges" continued their work; the Government had merely renamed them "specialist judges".

31. She called for the mandate and powers of the High Commissioner's Office in Colombia to be strengthened and for the report on its operation to be transmitted to the General Assembly. She also called on the Commission to establish an additional monitoring mechanism in view of the persistence of the serious human rights situation in Colombia, the widespread impunity and the repeated failure to implement international recommendations.

32. Ms. UPRIMNY (Colombian Commission of Jurists) said that her organization was concerned by the failure of the Government of Colombia to cooperate with the international community or to implement any of the recommendations made over the past 10 years. Despite the recommendation that human rights violations should not be judged by military courts, the new Military Penal Code, adopted in June 1999, ignored both it and the 1997 Colombian Constitutional Court decision that human rights violations could not be subject to military jurisdiction. The Colombian Congress had, at long last, passed a law penalizing enforced disappearances but it had been rejected by the Government apparently because it was unwilling to have that crime tried by the ordinary courts.

33. In 1999, the number of deaths caused by political violence had risen from 10 to 12 persons per day. State agents' involvement in such deaths had been reduced to 5 per cent, guerrilla groups had been responsible for 22 per cent and the paramilitary groups were currently responsible for more than 70 per cent. As the High Commissioner for Human Rights said in her report (E/CN.4/2000/11), the last groups had the support, acquiescence or toleration of State officials and benefited from the lack of an effective response by the State. When, in 1999, the Government had dismissed three generals with clear links to the paramilitary, their cases had

been transferred to a military court, where they were assured of impunity. All parties to the conflict must commit themselves to respecting the human rights of non-combatants and sign a humanitarian agreement.

34. Peace must be built on a basis of respect for human rights but the search for peace in Colombia was not accompanied by a serious human rights policy. Many human rights defenders had been forced to leave the country for fear of their lives, while others had been assassinated. The Commission should therefore urge the Government of Colombia to cooperate, and implement the recommendations of the High Commissioner's Office in Colombia.

35. Ms. BIONDI (International Confederation of Free Trade Unions) said that her organization fully supported the statement by the representative of Franciscans International. The human rights situation in Colombia was deteriorating and included targeted violence against trade unionists. Of the thousands of cases of human rights violations against Colombian trade unionists that had been reported since 1987, only two had resulted in convictions. In the previous week five trade unionists had been murdered, and two others seriously injured. Trade unionists were clearly still being attacked, assassinated, threatened, displaced and kidnapped with impunity. The Commission must take a strong stand on the violation of trade union rights. The Guilty parties must be punished and the independence of the judiciary respected.

36. More than ten years previously, the Colombian national trade union centres had complained to the International Labour Organization (ILO) about continued violations of human and trade union rights. In 1998, the annual Conference had decided to examine the possibility of setting up a commission of inquiry. The Colombian Government had been trying at all costs to avoid that eventuality. Such a commission would not, however, seek to impose sanctions but to secure reform. It could help to support efforts to overcome the internal armed conflict and the numerous social problems in Colombia and she called upon the Commission to support the establishment of an ILO commission of inquiry.

37. Ms. BAUTISTA (Latin American Federation of Associations of Relatives of Disappeared Persons) said that her organization was seriously concerned at the progressive deterioration in the human rights situation in Colombia and, in particular, at the increase in enforced disappearances. It had for years been monitoring the situation, which it had frequently denounced to the Commission. The State agents and paramilitary groups which carried out those crimes enjoyed complete impunity, and the authorities had opposed a succession of bills to criminalize enforced disappearances, thus clearly demonstrating that they had no interest in seeing justice done.

38. While she welcomed the steps towards peace that had been taken and the international community's efforts to assist that process, peace should not be bought at all costs. The price must not include impunity for the atrocious crimes that had been committed. The voices of the victims must be heard, and both victims and social and human rights organizations must be actively involved in the reconstruction of a democratic society.

39. Ms. CHURCH (Christian Aid) said that the reports on Colombia demonstrated yet again how far the Government of that country had to go to meet its international obligations. The greatest problem appeared to be its comprehensive failure to implement repeated

recommendations. No action had been taken to combat and dismantle the paramilitary groups, whose collusion with the military was well documented. While the President's recent announcement that measures would be taken to remove all military personnel with links to paramilitary groups was a welcome one, it remained to be seen whether it was any more than empty words.

40. While her organization would always support a negotiated solution to the conflict, it was dismayed by the fact that human rights and humanitarian concerns appeared to have a low priority in the current peace negotiations. As the High Commissioner had said, a humanitarian accord, with international verification, must be the first priority, as a way of protecting civilians and enabling them to participate in the search for peace. If peace in Colombia was to have any chance of success, it must be built on respect for human rights and international humanitarian law.

41. Mr. NARVAEZ (American Association of Jurists) said that, in recent years, paramilitary groups had been increasingly responsible for human rights violations. The groups in question had been largely created by the State with a view to pursuing a policy of violence towards sectors of the population considered to be insurgent. While the dialogue inaugurated in January 1999 between the main parties to the conflict was an important step towards a peaceful negotiated solution, the military assistance afforded by the United States Government to the Colombian Government was counter-productive. It contravened the requirement that military assistance should not be provided to military groups implicated in human rights violations. It was a matter for great concern that the United States should be assisting the Colombian military without obliging it to improve its human rights record.

42. Ms. WESCHLER (Human Rights Watch) said that of the more than 400 massacres recorded in Colombia in 1999, the majority had been perpetrated by paramilitaries working hand in hand with the Colombian army, while guerrillas were implicated in others. The close ties between the Colombian army and paramilitary groups were well-documented. While the national police had been directly implicated in joint army-paramilitary actions and had sometimes organized paramilitaries and supplied them with information, it was important to note that human rights violations committed by police did not usually go unnoticed or unpunished. Since 1994, 11,400 police officers implicated in human rights abuses and other forms of criminal activity had been discharged and placed at the disposition of the courts for trial and punishment.

43. The Commission must demand that the Colombian army sever links at all levels to paramilitary groups and implement a comprehensive and public plan to capture and bring to justice paramilitary leaders and the military officers supporting them. The Government of Colombia must uphold the Constitutional Court ruling that crimes against humanity allegedly committed by military personnel be investigated and tried in civilian courts. Moreover, the Commission must urgently support the work of those Government officials and members of NGOs who defended human rights.

44. Ms. WOLFE (International Federation Terre des Hommes) said that children represented 41.5 per cent of the population of Colombia. Millions of them lived in abject poverty, were subject to abuse and violence, denied schooling and worked in high-risk sectors of the black economy. Of the 2 million displaced persons in Colombia, 70 per cent were minors.

The armed conflict had the most serious consequences for children in Colombia and she wished to draw the Commission's attention to the aforementioned human rights abuses, which were a particularly lamentable outcome of the more generalized situation of violence. The Government of Colombia not only continued to fail to implement the recommendations made by United Nations bodies and OHCHR, it was also making very little effort to implement the Convention on the Rights of the Child. Colombian children must be provided with the protection and education to which they were entitled.

45. Mr. REYES RODRIGUEZ (Colombia), speaking in exercise of the right of reply, said that there was no institutional relationship between the State and the self-defence groups. He referred the Commission to his earlier statement, in which he had given an account of the measures being adopted by his Government to deal with such groups.

INDIGENOUS ISSUES (agenda item 15) (continued) (E/CN.4/2000/84-86; E/CN.4/2000/NGO/11, 16, 37, 39, 83, 100, 120 and 128; A/54/487 and Add.1; E/CN.4/Sub.2/1999/18-20; E/CN.4/Sub.2/AC.4/1999/4 and 6)

46. Ms. SOUS-CASTANEDO (Guatemala) said that Guatemala was a multi-ethnic, multicultural and multilingual country. In the past 15 years, it had made substantial progress towards peace and had signed important agreements that had transformed the country, resolving complex and long-standing problems and facilitating reconciliation. In order to achieve that success, her authorities had placed no limits on international inspection and verification.

47. The promulgation of the Political Constitution in 1985 had been a major landmark. It had introduced human rights institutions and created significant agents for social change, including the Fund for Indigenous Development. A cross-cultural bilingual educational system had been introduced and the establishment of a Mayan university had been envisaged. The Constitution had established the obligation of the State to provide special protection for the lands of cooperatives, communities or collectives, recognized the right of indigenous and other communities to continue to administer their traditional territories, and envisaged the possibility that the State might be responsible for providing indigenous communities with such land as was necessary for their development.

48. An agreement on the identity and rights of the indigenous peoples (the "Indigenous Accord") had been concluded as part of the peace agreement. That Accord made provision for the eradication of marginalization and discrimination through mechanisms to guarantee to indigenous peoples the full enjoyment of their cultural rights and to strengthen indigenous institutions. Pursuant to the Indigenous Accord, a Commission for Educational Reform had been established with responsibility for ensuring that the educational system reflected the multilingualism and multiculturalism of the country. Indigenous groups and the Government were represented on the Commission.

49. Under the terms of the Indigenous Accord, the Government had made a commitment to create an ombudsman for indigenous women, and, indeed, that post had recently been established.

50. Her delegation believed that the Commission should have a special rapporteur on the human rights and fundamental freedoms of indigenous peoples, and had prepared a draft resolution to that effect which she hoped would be supported by all States. It was in favour of the establishment of a permanent forum for indigenous people and supported the efforts of the Working Group on Indigenous Populations and the work on the draft United Nations declaration on the rights of indigenous peoples.

51. Mr. LORD (Canada) said that the draft resolutions it would be considering - one of which would authorize a further meeting of the working group on a draft United Nations declaration on the rights of indigenous peoples - gave the Commission the opportunity and responsibility to affirm its leading role in advancing the interests of indigenous peoples.

52. The working group's meetings had successfully built mutual confidence between the representatives of States and those of indigenous peoples. A genuine dialogue had taken place and it was encouraging that States had agreed to make additional efforts to work together to find a common understanding. The alternative texts for the cluster of draft articles 15-18 represented an important step forward. His delegation was, however, concerned that substantial portions of each session were taken up in reviewing past work and rebuilding the conditions necessary for making progress. If the goal of adopting a draft declaration by the end of the Decade was to be achieved, the pace of work must be quickened and the continuity strengthened. For that reason the draft resolution invited all interested parties to conduct broad, informal inter-sessional consultations with a view to facilitating progress. For its part, his Government would continue its consultative dialogue with aboriginal leaders and officials in Canada.

53. His delegation would also be a sponsor of the annual combined draft resolution on the Working Group on Indigenous Populations and the International Decade of the World's Indigenous People. The Working Group continued to play an important role in facilitating and encouraging dialogue among States, indigenous peoples and bodies of the United Nations system; in reviewing developments; and in addressing specific issues, such as the themes of the International Decade. He welcomed the fact that its eighteenth session would focus on the theme of indigenous children and youth, which would be preceded by a special workshop on indigenous children.

54. He hoped that States would support the Voluntary Fund for Indigenous Populations and the Voluntary Fund for the Decade. His delegation was deeply appreciative of the eminent indigenous persons who sat as the Board of Trustees and advised the Coordinator for the Decade on the administration of the Funds. They were deeply committed to their often difficult task of deciding how best to use the limited funding available.

55. Over the 20-odd years since the Commission had taken on and maintained its leadership role within the United Nations system in addressing the aspirations and needs of indigenous peoples, it had created, first, the Working Group on Indigenous Populations and, later, the working group on a draft United Nations declaration on the rights of indigenous peoples. At its current session, the Commission had a historic opportunity to set another milestone by recommending that the Economic and Social Council should establish a permanent forum for indigenous people.

56. The contributions of the indigenous peoples' representatives, especially those from Canada, had been crucial to the successful outcome of the open-ended inter-sessional ad hoc working group. The proposed draft resolution on the matter reflected a broad consensus achieved within the working group. His delegation supported the proposals that the permanent forum should be a subsidiary body of the Economic and Social Council; that it should be made up of 16 members, with an equal number of representatives of States and indigenous peoples; that it should meet for 10 days each year; and that the selection of indigenous representatives should reflect indigenous values and views on geographic distribution and representativeness.

57. Mr. LIENLAF (Chile) said that, in accordance with the 1989 Nueva Imperial Pact, which had replaced an assimilationist approach with one based on multi-ethnic understanding, his Government fully supported the establishment of a permanent forum for indigenous people. His delegation was currently participating in the preparation of the draft resolution to that end.

58. Since 1990, successive Chilean Governments had been pushing ahead with a project to reform the Constitution, with a view to ensuring recognition for the indigenous peoples living within the national territory. The new Government had given top priority to the reform. It also hoped to secure the ratification of ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

59. Within four days of taking office, the current Government had convened a meeting of indigenous organizations and employers' organizations, together with representatives of the churches and public bodies, with a view to preparing an action plan laying the foundations for a new agreement between the State, society and the indigenous world. It had also decided to establish a commission of truth and historical dignity of the indigenous peoples.

60. A major problem for Chile's indigenous communities had been the loss of their lands, which had weakened their cultural and social roots. Under the Nueva Imperial Pact, the Government was to return the lands by means of an Indigenous Land and Water Resources Fund. The target of 100,000 hectares specified in the Pact had already been reached and, indeed, surpassed and the Government had set a new target of 150,000 hectares of indigenous land to be achieved in the first six years of the new millennium.

61. The Indigenous Development Fund had been established to finance special programmes aimed at the harmonious development of indigenous individuals, families and communities, on the basis of social equity, economic growth and environmental sustainability, and US$ 15 million had already been invested. Indigenous Development Areas had been established as a way of concentrating public investment in areas with a high proportion of indigenous residents and conducting community participation experiments in management and development. Public investment amounting to US$ 91 million had already been committed to the Areas for the period 1999-2002.

62. In the field of education and culture, progress had been made with the Indigenous Grants Programme, which provided grants at every level of education. The rise from 5,000 grants in 1994 to 18,000 in 2000 had made it possible to meet more of the demand for education among indigenous students.

63. Despite the efforts made to address the various problems facing Chile's indigenous peoples, tensions still existed. The important fact, however, was that there was a public policy of support for indigenous peoples and that the Government intended to continue working for improvements in the living conditions of the indigenous peoples through a policy of dialogue.

64. Mr. REYES RODRÍGUEZ (Colombia) said that the identity of Colombia's indigenous peoples was protected by the country's decentralized system, which gave autonomy to the various territories. Boundaries were set by the national Government, by agreement with indigenous representatives, and the indigenous peoples enjoyed collective and inalienable ownership of their reservations. Relations between the various entities were defined by law. The indigenous territories were governed by councils established and regulated in accordance with the usage of the communities concerned, whose powers included the implementation of the law on the use of their land. The Constitution stated that the exploitation of natural resources in the indigenous territories would be carried out without detriment to the cultural, social or economic integrity of the indigenous communities. In any decision regarding such exploitation, the Government would encourage the participation of representatives from the communities concerned.

65. In recent months, some national and foreign non-governmental organizations (NGOs) had been actively opposing legitimate prospecting for oil in Colombia, building their campaign around the indigenous U'wa community, to which the Government had previously given territorial rights over a wide area of land. The country was in recession and it had therefore become necessary to prospect for oil so as to avoid importing oil in the future. In so proceeding, the Government had fully respected constitutional and environmental law.

66. If the Samoré oil project proved feasible, the country would become self-sufficient in crude oil, and would receive Col$ 2 billion in social investment at the national level and Col$ 1.4 billion at the regional level, in royalties during the life of the project. The Samoré project was located outside the indigenous reservation and the prospecting terms would not affect U'wa rights. A participatory process had been developed to ensure that the prospecting and any exploitation of the Samoré project would not have a negative impact on the cultural, social and economic integrity of the U'wa community based in the area. The process, worked out over seven years of dialogue, had culminated in an agreement signed on 19 July 1999, between the Ministry of the Environment and the U'wa Senior Council, in which the Government fully accepted the recommendations of an independent study carried out by the Organization of American States (OAS) and the University of Harvard. In line with its recommendations, the Government had extended the U'wa lands from 60,000 to 220,000 hectares to serve the 4,500-strong community. The agreement fully incorporated the delimitation of the lands established by the U'wa Council, in line with a study carried out with assistance from a private academic institution.

67. Once the agreement had been signed, the Government had granted an exploration licence to the OXY Company; the terms of the licence obliged the company to protect water bodies and to maintain contact with the communities concerned. OXY had voluntarily declined to work in another part of the territory and had started its exploration work in the Gibraltar 1 well, which would affect an area of only 12 hectares situated 2 km from the U'wa lands.

68. It was not yet known whether oil existed in the area or, if so, whether the geological conditions were appropriate. If they were, OXY would require another licence. The Samoré project guaranteed environmental sustainability and the integrity of the indigenous culture. Its benefits for Colombia, its regions and communities, were undeniable and essential.

69. Mr. GALLEGOS CHIRIBOGA (Ecuador) welcomed the significant progress that had been made in the discussions on the composition and mandate of the permanent forum for indigenous people, although his delegation would have preferred even broader discussions, so that the scope of the forum and the distribution among the various indigenous populations of the world could be defined more precisely. If the forum was an organ of the Economic and Social Council, it would have the opportunity to cover the whole range of human rights and the economic, social and cultural factors that impinged on the life of indigenous populations. It would thus be a place where States and indigenous peoples could engage in dialogue on issues of mutual concern.

70. The remaining task for the open-ended inter-sessional working group was to work out procedures to ensure the forum's effectiveness. States with large indigenous populations had the obligation to promote their rights both nationally and internationally and to establish more effective standards. The establishment of a permanent forum would make it possible to further the common cause of protecting the human rights of millions of people.

71. The task of the open-ended inter-sessional working group on a draft United Nations declaration on the rights of indigenous peoples was no less difficult than that of its fellow working group. It faced the considerable challenge of formulating a text that would take into account the various legal systems and traditions and progress was inevitably slow. His delegation hoped that the pace of discussion could be speeded up and that it would result in a document enjoying universal acceptance.

72. Mr. GUILLEN BEKER (Peru) said that his Government was doing everything in its power to assist the indigenous peoples, which played a fundamental role in Peruvian society. At the national level it had established the Technical Secretariat for Indigenous Affairs within the Ministry for the Advancement of Women and Human Development as a first step towards improving the administrative structure in relation to indigenous peoples. Congress had also established a Committee for Indigenous Affairs, to assess the relevant bills, one of which was in course of preparation.

73. Peru was one of the few countries to have ratified ILO Convention No. 169, the most progressive international instrument for the protection of indigenous peoples' rights. In accordance with its commitments under the Convention, his Government had initiated consultations on preparing legislation to provide a system of protection for collective knowledge relating to biodiversity and on another proposal to regulate access to the genetic resources of the indigenous populations.

74. Progress had also been made at the international level, particularly within the Commission. In that connection, he welcomed the achievements of the working group on a permanent forum for indigenous people at its latest session, in reaching agreement on some central aspects of the initiative. While in favour of such a forum, his delegation had some doubts

about certain aspects on which it had not been possible to achieve full agreement, especially regarding the process of appointing or electing experts by the indigenous peoples. The indigenous peoples should participate fully in the appointment of such experts, while the establishment of the forum should reflect the diversity existing among the world's indigenous peoples. His delegation would give favourable consideration to any formula that could be submitted to the Economic and Social Council in the current year.

75. The working group on a draft United Nations declaration on the rights of indigenous peoples had also made substantial progress. Annex 1 of the working group's report (E/CN.4/2000/84) showed that delegations had come very close to agreement on four articles. The proceedings should, however, be speeded up and, at its next session, the working group should focus in detail on articles that had already been discussed and on which there were elements of agreement, rather than embark on entirely new articles. It would also be useful for Government delegations to consult informally before the next session on both the content of the draft declaration and the best way of bringing about the active participation of indigenous representatives.

76. Mr. AVILA (Mexico) said that the promotion and protection of the rights of indigenous peoples was an essential part of his Government's agenda. There were 10 million indigenous people in Mexico, speaking 62 languages and making up 10 per cent of the population. The democratic State could not function without them. The Government therefore made every effort to ensure the fulfilment of their rights. Only thus could the poverty, exclusion and marginalization from which Mexico's indigenous peoples had historically suffered be tackled.

77. It was a huge challenge, but huge efforts had also been made. Over the past decade, there had been a substantial shift in the relationship between the State, the rest of society and the indigenous peoples, not only in the recognition in the 1991 Constitution of the multicultural nature of the country but also the elimination of the paternalist approach; the accent being henceforth on enabling indigenous people to be agents of their own development.

78. In compliance with the San Andrés Accords, the Executive had in 1998 sent Congress a proposal for constitutional reform, recognizing the right to autonomy and self-determination for indigenous peoples, bilingual education, the use of communication media, the administration of justice based on traditional systems and participation in Government in accordance with their customs. It was for Congress to complete the process, but 18 of the 32 Mexican states - those with the largest indigenous populations - had already reformed their local constitutions, taking their lead from the Executive.

79. The fight against poverty was a central objective of the Government. It ran a special programme for education, health and nutrition that helped 900,000 indigenous families. Education was bilingual for all indigenous peoples. All the 4.2 million children in rural primary schools received free books and materials in their own languages. Moreover, 70 per cent of the country's 20,000 indigenous communities already possessed documentary proof of their ownership and rights. Substantial economic support was given to indigenous enterprises and producers of basic crops were paid in cash, enabling them to acquire materials and have some protection against price variations.

80. Another Government priority was to involve indigenous peoples in justice and the fight against impunity. In states with a high concentration of indigenous peoples, courts consisting of indigenous persons had been established to settle intercommunal conflicts on the basis of conciliation and reparation. The National Human Rights Commission, the National Indigenous Institute and the Attorney-General of the Republic all had special departments to ensure access by indigenous peoples to justice. The Institute also had 24 radio stations operated by indigenous people and reaching an audience of 4.5 million, dealing principally with human rights questions. Special agrarian courts had been established, as well as a National Agrarian Register, to protect and guarantee the various forms of landholding.

81. Violators of human rights, especially those of indigenous peoples, were prosecuted. After the tragic massacre in Acteal in December 1997, 102 people had been detained and 55 had been sentenced, 13 of them being members of municipalities or local civil servants.

82. In Chiapas, the Government continued to seek a worthy and just peace and to combat poverty and marginalization. In September 1999, it had publicly submitted to the National Liberation Zapatista Army (EZLN) its "one step more" proposal, but no reply had been received. Huge resources had been poured into combating poverty there over the past five years. Over US$ 6 million had been invested in health, education, housing and land distribution. Unfortunately, the conflict in Chiapas had polarized and divided some communities. In 1998, there had been 9,724 displaced persons, most of whom had settled in one area. Many had since returned to their communities. The Government was currently helping 7,200 displaced persons with health care, food and shelter.

83. At the international level, the Government had acceded to ILO Convention No. 169. At the regional level, machinery had been put in place to support the economic development of indigenous peoples. In 1999, Mexico had been the first country to deliver to the Inter-American Development Bank its quota for the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean. His delegation was chairing the OAS working group preparing an American declaration on indigenous peoples rights.

84. His delegation strongly supported the establishment of a permanent forum for indigenous people and called on all States to work for a speedy conclusion to the work on the elaboration of a draft declaration on the rights of indigenous peoples.

85. Mr. PLORUTTI (Argentina), stressing the importance of the International Decade of the World's Indigenous People, said that his delegation hoped that the draft declaration on the rights of indigenous peoples would soon be approved. Considerable progress had been made towards achieving a consensus on the subject, but crucial issues concerning the participation of indigenous representatives had yet to be resolved. His own delegation, like that of other Latin American countries, had been working to ensure that, whatever the method chosen, indigenous communities would be able to nominate their own candidates and be consulted regarding the membership of the forum. In view of the fact that the United Nations was an intergovernmental organization, delegations to the permanent forum should be comprised partly of government representatives and partly of freely elected indigenous representatives.

86. Argentina had an estimated 800,000 indigenous persons belonging to 17 different peoples and accounting for 1.5 per cent of the total population. The Government was committed to protecting indigenous rights, and had incorporated most of the principles of the 1985 Indigenous Policy and Aboriginal Communities Support Act into the constitutional reform process of 1994. The original Act guaranteed the protection and development of indigenous communities by means of their full participation in the social, economic and cultural life of the nation. The new legislation took account inter alia of the "ethnic and cultural pre-existence" of Argentinean indigenous peoples, their legal personality, their entitlement to land, their participation in the management of their natural resources, the importance of bilingual and intercultural education, and the preservation of their heritage.

87. In its annual report for 1999, the National Institute for Indigenous Affairs noted an increase in the number of scholarships awarded to indigenous persons, and progress in the regularization of land titles. It also reported progress in the review of legislation and welcomed the considerable national investment in institutional capacity-building and training for indigenous communities. A number of national indigenous programmes were being implemented in the fields of culture, health, housing and the environment. Numerous debates and seminars had also been organized with the participation of indigenous peoples and the national and local authorities. Such measures were a testimony to the Government's commitment to indigenous issues.

88. Mr. MICHELENA (Venezuela) said that indigenous issues were a priority for his Government, which had always stressed concrete action to promote the rights and well-being of indigenous Venezuelans and to ensure their participation in national decision-making. Authentic indigenous representatives had, for the first time in Venezuelan history, been directly involved in bringing domestic legislation into line with international standards. A chapter on the rights of indigenous peoples had been incorporated into the new Constitution, which had come into force in December 1999.

89. The new Constitution guaranteed indigenous people their rights to their ancestral and traditional lands, to prior consultation as to the use of the natural resources of those lands, and to education which took account of their social and cultural needs. It also guaranteed recognition of their traditional medicine, their right to political representation, their native languages, their traditional social and political institutions and their indigenous way of life in general. The Constitution recognized that Venezuelan society was multi-ethnic and guaranteed the universal and indivisible nature of human rights without discrimination of any kind.

90. His delegation was participating actively in the work on indigenous issues at all international levels, not least in the inter-sessional working groups. It was in favour of the prompt establishment of the permanent forum, on the understanding that it would be merely the first step towards according indigenous peoples the prominence they deserved. Above all, the participation of all indigenous peoples through their authentic representatives must be ensured.

91. Mr. MOSES (Grand Council of the Crees) said that the establishment of the Working Group on Indigenous Populations had, for the first time, accorded the indigenous peoples some recognition, but initially only as poorly understood "populations" and "minorities". It had taken 20 years more to muster support for the proposed permanent forum. Certain Member States

would no doubt raise the issue of cost and the dictum that no new United Nations entities should be established, but such considerations could not justify the continued exclusion of indigenous issues from the work of the United Nations.

92. The indigenous peoples had made a major contribution to the world. All the countries of the Western Hemisphere were situated on their lands; they had hybridized basic food staples, such as corn and potatoes, and their traditional knowledge - rarely acknowledged - formed the basis of much of the modern pharmaceutical industry.

93. Given that standard-setting had by no means been completed, and that the review of indigenous developments must be ongoing, the crucial work of the Working Group on Indigenous Populations should continue, at least until the permanent forum, once established, recommended some means of continuing its mandate.

94. Mr. MIOT (International Federation of Rural Adult Catholic Movements (FIMARC)) said that transnational pharmaceutical and food industries were covertly appropriating the natural resources and traditional knowledge of indigenous peoples by seeking to patent the genetic material of plants they had protected and selected over the centuries. According to intellectual property law, natural substances and processes could not be patented, only inventions. Genetic sequencing surely represented a discovery, rather than an invention.

95. At the international level, however, there was pressure on the World Trade Organization (WTO) to accept such patents, which would be tantamount to biologically plundering the South. Indigenous people were determined to fight for their rights and assert their collective rights to their knowledge. However, since national legislation tended to favour individual rights, they were faced with a difficult task.

96. His organization was strongly opposed to patents on any living material and wished to remind States of the importance of the ratification and incorporation into domestic legislation of the Convention on Biological Diversity. The World Intellectual Property Organization (WIPO) should protect the know-how and heritage of indigenous people and involve them in discussions and actions concerning them. The world's genetic heritage was humanity's common patrimony and could not be bought and sold as merchandise.

97. Ms. SPALDING (World Federation for Mental Health), drawing attention to the serious psychological implications of forced relocation on traditional peoples, said that the Commission should take urgent and proactive measures to further support the Dine'h people in their attempt to maintain physical and spiritual integrity on their lands. The cultural life and disciplines of societies and individuals was also crucial to their mental and physical well-being. Her organization wished to thank the Commission for its commitment to raising awareness of indigenous cultural rights.

98. Mr. ÖZDEN (Centre Europe - Tiers Monde (CETIM)), said that indigenous peoples were particularly vulnerable to human rights violations resulting from natural resource exploitation projects carried out by large transnational corporations. In Colombia, the U'wa people had, since time immemorial, lived in the north-east of the country near the border with Venezuela. Their ancestral territory was currently being threatened by oil prospecting under a licence

accorded to a United States corporation (Occidental Petroleum (OXY)) without prior consultation. The prospecting had already caused serious environmental degradation, including damage to water supplies, land and forest.

99. Also in Colombia, on the Sinú River, the life, culture and territorial integrity of the Embera Katio people were being threatened by the construction of the Urrá 1 hydroelectric dam. Not only had consultations with the people been insufficient, but persons critical of the project - including community leaders, advisers and scientists - had been murdered or received death threats. The Government had authorized the work of filling the reservoir to begin without any credible impact or environmental management study.

100. Financial institutions should accept responsibility for the impact of the projects they financed and corporations should be made liable for full compensation to the indigenous peoples affected. An international instrument to limit economic activities which undermined the culture, life and territories of indigenous peoples should be elaborated, perhaps by the Working Group on Transnational Corporations of the Sub-Commission. Moreover, it was the responsibility of States to ensure that such corporations complied strictly with human rights standards on their territory.

101. The Commission should speak out against large-scale projects on indigenous territories, make a clear statement with respect to the situation of the U'wa and Embera Katio peoples and the Government of Colombia, and call for both projects to be halted. The legal guarantees protecting the indigenous peoples of Colombia should be respected.

102. The CHAIRMAN said that the speaker had exhausted his allotted time.

103. Mr. SIMMONS (International Indian Treaty Council), speaking also on behalf of Indigenous World Association and the Society for Threatened Peoples, expressed appreciation for the frank dialogue on the draft declaration that had taken place within the working group. A growing number of States, re-examining their initial positions, had decided to support the unqualified use of the term "Indigenous Peoples" in the draft declaration. The few States which persisted in opposing that fundamental principle were preventing any real progress on the issue; they should reconsider their positions.

104. The method of selection of members of the permanent forum was a matter of deep concern. If it was not clarified and Governments appointed both the indigenous and State members, the forum would lack the necessary credibility.

105. His organization urged the Commission to renew its commitment to the adoption of the draft declaration and the successful establishment of the permanent forum, both of which were vital to peaceful coexistence and to reconciliation between the indigenous peoples and Governments.

106. Mr. WATCHMAN (International Indian Treaty Council) said that his people were being forcibly relocated by the United States Government on the pretext of a "Navajo-Hopi land dispute". Evictions were under way of the last remaining Dine'h elders and their families, who had always refused to sign away their rights to their ancestral homeland. The Government had also forbidden ceremonial use of the land, including traditional Dine'h burials. A special rapporteur should be appointed to examine the full extent of human rights violations in that and similar situations. It was clear that many Governments were not responsive to appeals by the international community and must be continually monitored on compliance with their international obligations.

The meeting rose at 1.05 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE FIFTIETH MEETING

Held at the Palais des Nations, Geneva
on Friday, 14 April 2000, at 3 p.m.

Chairman: Mr. SIMKHADA (Nepal)

later: Mr. IBRAHIM (Sudan)

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INDIGENOUS ISSUES (continued)

REPORT OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) REPORT AND DRAFT DECISIONS

(b) ELECTION OF MEMBERS

This record is subject to correction.

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Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

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The meeting was called to order at 3 p.m.

INDIGENOUS ISSUES (agenda item 15) (continued) (E/CN.4/2000/84, 85 and 86; E/CN.4/2000/NGO/11, 16, 37, 39, 83, 100, 120 and 128; A/54/487 and Add.1; E/CN.4/Sub.2/1999/18, 19 and 20; E/CN.4/Sub.2/AC.4/1999/4 and 6)

1. Mr. HOFFMAN (Aboriginal and Torres Strait Islander Commission), speaking also on behalf of the National Indigenous Working Group on Native Title and the Foundation for Aboriginal and Islander Research Action, said that international mechanisms provided an opportunity for indigenous peoples to draw the world's attention to the struggle they were conducting to have their rights recognized. The work being done to achieve a United Nations draft declaration on the rights of indigenous peoples and to establish a permanent forum for indigenous peoples was particularly useful in that regard. Furthermore, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance would be the occasion to highlight the impact of racial discrimination and economic, social, cultural and political inequality on indigenous peoples.

2. The right to self-determination was the fundamental principle underlying the draft declaration on the rights of indigenous peoples. Despite the fact that Australia was a highly industrialized country, its indigenous peoples faced problems very similar to those of other indigenous peoples, especially in the areas of health and employment. The Committee on the Elimination of Racial Discrimination had criticized Australia on several occasions and had drawn to its attention its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. The Australian Government had moved further away from the process of reconciliation between indigenous peoples and other Australians, particularly by virtue of its attitude towards the question of the separation of Aboriginal children from their families. It was a matter of extreme concern that the Australian Government was not applying existing treaties to which it was a party and was ignoring the observations of the bodies charged with monitoring their implementation. The indigenous peoples of Australia had shown their good faith by their willingness to engage in a dialogue with the Australian Government but, given the latter's lack of cooperation and the continuing deterioration of their situation, they were relying increasingly on the United Nations to ensure recognition of their rights. The creation of a permanent forum for indigenous peoples seemed in that connection even more critical.

3. Ms. CUNNINGHAM (International Human Rights Law Group) said that the indigenous peoples of the Atlantic Coast of Nicaragua enjoyed a measure of autonomy, but that the provisions for implementing the law on autonomy had never been adopted. The statute of the autonomous regions of the Atlantic Coast of Nicaragua established rights to community lands by stipulating in particular that their exploitation must benefit the inhabitants of the Atlantic Coast in an equitable manner. Under the law those lands were inalienable, could not be sold, seized or mortgaged, and were imprescriptible. The 1995 constitutional reform guaranteed autonomy and laid down that authorizations for the exploitation of natural resources had to be approved by the Autonomous Regional Council. However, there was no law delimiting community lands, and some of the traditional lands were conceded to private investors for the implementation of big development projects or exploited by farmers from other regions.

4. Consequently, the Commission should invite the working group on a draft United Nations declaration on the rights of indigenous peoples to complete its work quickly, support the process of drawing up the American declaration on indigenous peoples and recommend to Nicaragua that it should consider ratifying ILO Convention No. 169, to ensure that in the consultation process on delimiting community lands full account was taken of the rights of indigenous peoples, and effectively to protect the rights of indigenous peoples to their traditional lands.

5. Mr. BRANCH (International Educational Development) said that his organization had long been involved in the efforts being made to end the civil war in Chiapas and the grave human rights violations perpetrated by Mexico's security forces against the indigenous people of that region, who were struggling for justice and autonomy under the leadership of the Zapatista Army of National Liberation (EZLN). Recent visits to Chiapas, in particular by the United Nations High Commissioner for Human Rights, had led to two main recommendations, namely, the need to end the official indulgence enjoyed by paramilitary groups and the renewal of talks between the Mexican Government and EZLN.

6. The need for the demilitarization of Chiapas was clear: as well as 70,000 federal troops there were at least 15 paramilitary organizations threatening, detaining, torturing and murdering EZLN sympathizers, often in cooperation with State security forces. Since 1999 the human rights situation had markedly deteriorated: Government troops and paramilitary units had attacked numerous localities and recent acts of violence included the summary execution of four indigenous men. The resumption of dialogue was blocked by the duplicity of the Mexican authorities which had not implemented the San Andrés Accords of 1996 and, in their 1999 proposal for settling the conflict, had not even mentioned the presence of the army in Chiapas.

7. The proposed technical assistance programme between the United Nations High Commissioner for Human Rights and Mexico was a step forward provided that it was effectively implemented. The Commission should express its support for a needs evaluation mission to establish the terms of the agreement. Mexican NGOs should also be involved in the commencement of the programme; there should be further visits by rapporteurs; and an independent expert on Mexico should be appointed. Those measures, along with the demilitarization of Chiapas and the fulfilment of the San Andrés Accords would enable a just and lasting peace to be established in the region.

8. MR. GIMBERNAT (Association for Defence and Promotion of Human Rights) said that more than 20,000 inhabitants of Chiapas had been chased off their land. The 1995 law on dialogue, reconciliation and peace in dignity had not produced the results expected since the Mexican Government had decided to solve the problems of Chiapas through violence. The United Nations High Commissioner for Human Rights had requested the Mexican Government in vain to reduce its military presence and resume dialogue. Paramilitary groups were acting with full impunity and the Special Rapporteur on extrajudicial, summary or arbitrary executions had links between those groups and the authorities with regard to the massacre at Acteal. The indigenous populations saw their lands overrun, their crops laid waste and their natural resources destroyed; they could not move freely on their own territory and were victims of arbitrary arrest, torture, maltreatment and looting.

9. In Colombia, the native populations living near the Atrato river in the department of Choco were threatened by large-scale projects and forest exploitation. They had started a process to get their rights to their own territory recognized, but that had unleashed exactions on the part of paramilitary groups which blocked supplies of foodstuffs, destroyed localities and expelled thousands of people. The authorities were accomplices in those actions, which amounted to genocide.

10. In the Alto Bío-Bío region of Chile, about a hundred Mapuche-Pewenche families had been threatened by a dam construction project which would involve flooding their territory and endangering their survival and culture. The procedure for authorizing the construction work had been sullied by all sorts of irregularities.

11. The Commission should call on Mexico and Colombia to put an end to the activities of paramilitary groups and on Chile to launch an inquiry into the abuses committed in Alto Bio-Bio; it should also ask all States to examine the international investments of transnational companies located on their territories in order to determine whether some of them were directly or indirectly linked to violations of the rights of indigenous peoples.

12. Mr. CHAKAMA (Asian Buddhist Conference for Peace) said that Governments were using peace processes as a cover for committing more human rights abuses. The example of the Chittagong Hill Tracts in Bangladesh was a striking one: three years had passed since the signing of the Peace Agreement and none of the problems had been resolved. The laws voted in Parliament were contrary to the Peace Agreement, military camps had still not been dismantled and Jumma refugees were still living in makeshift camps as settlers and security forces continued to occupy their lands.

13. The Asian Buddhist Conference for Peace welcomed the establishment of the Land Commission to resolve land disputes in the Chittagong Hill Tracts, and the appointment on 8 April 2000 of Judge Abdul Karim as its Chairman. However, there were concerns as to the real intentions of the Government. It had waited for three years before establishing the Commission, and general elections were due soon. Perhaps the intention was to pass responsibility for settling the problem to the Government which would come into power in the middle of 2001.

14. It was worth recalling that, after the restoration of democracy in Bangladesh in 1990, all local councils had been dissolved, with the exception of the Chittagong Hill Tracts district councils, which were still run by people nominated by the ruling party in the region. It was impossible to talk of democracy in the Chittagong Hill Tracts since the Government refused to hold elections there. Furthermore, the human rights of the Jummas were still being violated, and the fact that the Government was refusing to identify those responsible for the violations showed that the situation was not improving. The Asian Buddhist Conference for Peace drew attention to the Naniachar killings, which had cost the lives of 40 Jummas in 1993. The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions had stated in his report to the Commission on Human Rights at its fifty-first session that the Government of Bangladesh had never supplied a detailed reply to his questions, and had not yet made public the report of the commission of inquiry into the killings.

15. Given the widespread violations of human rights and the failure to implement the Peace Agreement, the Asian Buddhist Conference for Peace considered it shameful that the Prime Minister of Bangladesh had received the UNESCO Peace Award.

16. Mr. Ibrahim (Sudan) took the Chair.

17. Ms. GABRIEL (Aliran Kesedaran Negara) said that indigenous peoples in Malaysia continued to be the victims of so-called development activities. Their customary rights to land were violated and they were the victims of enforced displacement. The police had become infamous for taking no account of complaints lodged by indigenous people.

18. In Sarawak, for example, 19 indigenous people - one of whom was an adolescent who had been tortured - were being detained under harsh conditions. They were awaiting trial for the "murder" of four members of an armed group - apparently acting on behalf of a company - which had tried to force them off their land. The group had made a number of incursions into the village, but the police, despite complaints lodged by villagers, had not acted. The police investigation into the murder in question was dubious. There were similar incidents involving Penan communities living in the interior of Sarawak who had for a long time been the victims of police threats and aggression, as well as other incidents involving the Jahai community in Kelantan.

19. When large-scale projects were being implemented, indigenous communities were often forced to relocate in areas where they had insufficient resources for making their livelihood. That was what had happened when the dams were built at Bakun and Sungai Selangor. The Government had not seriously considered other water-saving strategies which were more respectful of the environment.

20. In some regions, indigenous peoples had lost their right of free movement: Sarawak activists had had their passports revoked so that they could not travel abroad to plead their case. Their supporters had been subjected to the same harassment; several activists in west Malaysia had been banned from travelling to Sarawak.

21. Aliran Kesedaran Negara therefore urged the Commission and its members to support the call for an immediate and impartial investigation by a royal commission of the complaints of indigenous communities in Malaysia concerning land encroachment and forced displacement. It also urged that firm action be taken against companies which used gangsters to force indigenous people off their land and that the conduct of the authorities concerned should also be investigated.

22. Mr. BOM (International Peace Bureau) said that the indigenous peoples of Burma had been systematically deprived of their right to freedom of worship by the military regime. In defiance of the Universal Declaration of Human Rights, which stated that everyone was free to practise the religion of his choice, the Burmese authorities were persecuting the country's Christian and Muslim minorities by implementing policies aimed at imposing a single religion, language and race. In July 1999, the United States Department of State had released a statement denouncing the religious persecution of Christians and Muslims in Burma. The authorities had immediately issued a blanket denial and had done nothing to change their practices.

23. There had been many recent examples of persecution of Chin Christians. Some had been arrested during a religious service, with the army justifying its action by stating that there was a standing ban on any gathering of more than five persons. Others had been compelled to take part in the construction of Buddhist temples without payment, while the construction of churches and Christian schools was banned. Others had been the victims of physical violence, and no action had been taken against the offenders although complaints had been lodged.

24. The International Peace Bureau requested the Commission on Human Rights to intervene, especially by ensuring that the question of violations of indigenous peoples' rights was included in a resolution on the situation of human rights in Burma.

25. Mr. SANCHEZ (American Association of Jurists) condemned the discrimination of which the Quechua, Aymara, Aguaruna and Ashaninka peoples were victims in Peru, where they represented more than 40 per cent of the population. Although the rights of indigenous peoples were recognized in the Peruvian Constitution and in ILO Convention No. 169, ratified by Peru in 1995, it seemed that violations of those rights had increased recently. Bilingualism was not respected, the regime for protecting community land was not applied and the commission for indigenous affairs had still not been set up. Furthermore, poverty and child mortality rates were much higher among indigenous people than in the rest of the Peruvian population. The American Association of Jurists therefore called for the legal recognition of the community lands of indigenous peoples, the establishment of the commission for indigenous affairs, promulgation of the law on indigenous people and the quashing of sentences passed on indigenous people in trials where normal procedures had not been respected, judges had been masked and the right to defence flouted.

26. A mission of the American Association of Jurists to Ecuador had reported a very high level of unemployment, concentration of wealth in the hands of a few, paralysis of the productive sectors and the diversion abroad of financial resources as a consequence of generalized corruption of the administration. Ecuadorians, and particularly indigenous Ecuadorians, had to put up with the effects of that disastrous situation which was due to the hegemony of the dollar and unrestrained implementation of the neo-liberal model. Whereas the Ecuadorian authorities should do whatever was necessary to recover funds which had been illegally transferred abroad and prosecute those responsible, those who stood up against the prevailing injustice and corruption were subjected to repression. The Ecuadorian branch of the American Association of Jurists had, during a human rights seminar held in Quito in March, transmitted to the Government a proposed amnesty law on behalf of civilians who had been charged and members of the military who had been held following the popular uprising in January. The American Association of Jurists renewed its call for an amnesty and urged the Government of Ecuador to change its economic policy, which ran the risk of completely destabilizing the country.

27. Mr. Simkhada (Nepal) resumed the Chair.

28. Ms. CAHUACHE (Latin American Human Rights Association) said that she was the Chairperson of the Organization of Indigenous Peoples of Colombian Amazonia (OPIAC), which represented 58 peoples each with their own language, cultural heritage and values. On behalf of the traditional authorities of those peoples, she denounced the destruction of which the indigenous peoples were victims as a result of the armed conflict in Colombia.

29. The indigenous peoples of Colombian Amazonia constituted an extremely vulnerable group which was exposed to continual discrimination in addition to the devastating effects of the armed conflict. All those involved in the conflict were committing grave violations of the rights of indigenous peoples and of international humanitarian law. They were causing massive displacements of population, depriving indigenous communities of their ancestral and sacred lands, involving women and children in the fighting, forcibly enrolling young people and carrying out indiscriminate attacks on indigenous communities whose members were harassed and used as human shields. Massacres, preceded by disappearances and torture, were also widespread. Forced disappearances and the assassination of hundreds of traditional chiefs and officials were depriving the indigenous peoples of their structures and collective landmarks. The territorial autonomy of indigenous peoples, which was recognized in the Constitution, was violated by all parties to the conflict. Their lands, which were the theatre of combat, were dotted with anti-personnel mines. The indigenous peoples were deprived of their freedom of movement and could no longer cultivate their land. They were also unable to continue with their customs and ancestral practices since the combatants were also attacking their culture and beliefs.

30. OPIAC and the Latin American Human Rights Association wished to alert the international community and appealed to all parties to the armed conflict in Colombia to respect the lives, integrity and territorial autonomy of the indigenous peoples of Amazonia.

31. Ms. GIRARDIN (Movement against Racism and for Friendship among Peoples) condemned the extermination of indigenous communities in Colombia as a consequence of the armed conflict which was plaguing the country and of the mistaken economic policies being applied there. Colombia had 82 indigenous peoples who had suffered more than 500 years of persecution. Now their survival was threatened not only by the armed activities of guerrilla and paramilitary groups, the army and drug traffickers but also by other factors including infrastructure development and the exploitation of natural resources such as oil. The indigenous peoples were being driven into inhospitable areas, decimated by disease and abandoned by society.

32. Some indigenous leaders, particularly of the Macaguana, Emberá, Inga, Mandi, Piunave, Kurripako and Cucura peoples, had lost their lives in horrifying circumstances. The constant threats, the fighting and the economic exploitation of territories had caused displacements of the Bocas del yí, Miriti, Cachivera, Puerto Corroncho, Puerto Vaupes, el Recurdo, Mitu Cachivera, Valencia Cano, 13 de Junio, el Guamal, el Criva, Seima, Cucura, Pueblo Nuevo and Muritinga indigenous communities. Some peoples were even at risk of disappearing completely. Count had been lost of the number of selective killings, massacres, cases of torture and forced disappearances.

33. The Movement against Racism and for Friendship among Peoples called on the Commission on Human Rights to do something about the situation and to take account of the proposals made by the indigenous organizations, which were seeking peaceful coexistence and development on a human scale and on a more interdependent community basis.

34. Mr. HENRIKSEN (Saami Council) emphasized the importance of the United Nations draft declaration on the rights of indigenous peoples. Recalling that the General Assembly had presented the adoption of such a declaration as one of the main objectives of the International

Decade of the World's Indigenous Peoples (1995-2004), he noted with concern that the progress which had been made in that direction had been very limited. At its last session, the working group on the draft declaration had not managed to adopt any of its draft provisions. After five years' work, only 2 of the 45 articles envisaged had been adopted; one concerned the right to a nationality and the other equal rights and freedoms for male and female indigenous individuals. The debate in the working group was admittedly becoming increasingly open, and that gave grounds for hoping that tangible results might be achieved in the near future. The Saami Council urged all Governments to do what they could to ensure that the draft declaration was completed rapidly and adopted as soon as possible.

35. The establishment of a permanent forum for indigenous peoples in the United Nations system was another important objective of the Decade, since it would greatly contribute to strengthening international cooperation for the benefit of indigenous peoples. The Saami Council welcomed the very productive second session of the ad hoc working group on the permanent forum which had been held in February 2000 and the fact that a draft resolution was to be submitted on the matter at Denmark's initiative. The Saami Council urged the Commission to reach a consensus on the matter at its present session so that the Economic and Social Council could be seized of it without delay.

36. The forum should be a subsidiary organ of the Economic and Social Council and be composed of an equal number of governmental and indigenous representatives. The Saami Council was ready to accept the proposal that members would serve in their personal capacity as independent experts, even if it would have preferred to have the indigenous members appointed as representatives of the indigenous peoples. The total number of members should be at least 16, given the cultural and geographical diversity of indigenous peoples. The forum should hold annual sessions of at least 10 days and have a separate secretariat. In that connection, it was a matter of concern that the draft resolution contained no provision regarding the secretariat, because the forum's mandate went beyond questions concerning human rights and it would therefore not be appropriate to assign its secretariat function to the Office of the United Nations High Commissioner for Human Rights.

37. In conclusion, the Saami Council supported the proposal to appoint a special rapporteur on indigenous issues, and was pleased to note that the idea was now receiving broad support within the Commission.

38. Mr. BHENGRA (International Workgroup on Indigenous Affairs) said that for 30 years indigenous peoples had been trying to have their voices heard in various intergovernmental organizations, and particularly the United Nations, condemning violations of their civil, political, economic, social and cultural rights and participating in the activities of the organizations, as well as in major international conferences and their follow-up mechanisms. Indigenous peoples were directly affected by all the decisions made by those organizations, but they also needed an organ or mechanism within the United Nations system which would focus on addressing the myriad issues and rights of indigenous peoples. That was why they supported the establishment of a permanent forum for indigenous peoples and a draft declaration on the rights of indigenous peoples, which States should be encouraged to adopt.

39. At its session in February 2000, the ad hoc working group on the permanent forum had given lengthy consideration to the structure and functioning of such a body. Indigenous peoples wanted it to be at the level of the Economic and Social Council and its mandate as broad as possible. It should be financed from the United Nations regular budget and be composed of an equal number of representatives from Governments and from the indigenous peoples; there should be at least 16 members, in consideration of the geographical areas where indigenous peoples lived. Open participation by members of indigenous communities in its sessions should be allowed.

40. The International Workgroup on Indigenous Affairs appealed to Governments to do what they could to meet those demands and was convinced that the international community had everything to gain by allowing indigenous peoples to have their place at the table. Conflicts could be resolved and justice could reign only if those directly affected had their say.

41. Mr. MAMANI (Indian Council of South America) recalled that delegations to the World Conference on Human Rights in Vienna in 1993, recognizing that indigenous peoples were the only peoples in the world not to be represented at the international level, had agreed to establish a permanent forum for them. That recognition was the foundation stone of the forum. But there was a risk of it being nothing but an international bureaucratic body made up of representatives of States and of indigenous people appointed by the same States, and of having no power of decision at the international level.

42. During the working group's last session it had been stated that the forum would not be at the level of the Economic and Social Council but answerable to it. If that was the case, it would not be composed of representatives of indigenous peoples but of indigenous experts in their personal capacity who could be appointed by their Government and would not necessarily have the backing of the indigenous people themselves. It was essential that the indigenous peoples should be duly represented within the forum and that it should have the widest possible mandate which would enable it to intervene in the continuing massacres of indigenous peoples. His organization rejected any other name for the body but that of "permanent forum for indigenous peoples". Calling it a "forum for indigenous populations" would be to deny the specificity of indigenous peoples and their existence by putting them on the same footing as the various social groups which existed in each and every State. Calling it a "forum for indigenous issues or indigenous affairs" would amount to the same thing and also give the impression that it might concern isolated individuals.

43. In conclusion, he noted that the draft resolutions submitted to the Commission were the result of unilateral agreements reached between Governments without consulting indigenous representatives and therefore having no value.

44. Mr. LITTLECHILD (International Organization of Indigenous Resource Development), speaking also on behalf of the International Treaty Four Secretariat, was very concerned to note that the inter-sessional working group on the United Nations draft declaration on the rights of indigenous peoples had still not managed to adopt the articles of the draft declaration by consensus and that some States were seeking to change the basis of its work away from Commission resolution 1995/32. He also wondered why the Commission had not placed on its

agenda consideration of the final report of the Special Rapporteur, Mr. Alfonso Martínez, on his study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20).

45. On the other hand, it was encouraging to note that the inter-sessional working group on a permanent forum for indigenous peoples had made progress and that there was a consensus on the establishment of such a body and on the extent of its mandate. He referred the Commission to document E/CN.4/AC.47/2000/CRP.1, which presented the recommendations of the Indigenous Caucus, and recalled in particular that the organizations on whose behalf he was speaking had defended the position that treaty rights were human rights and wanted treaties, lands and resources to be specified in the mandate of the permanent forum. Noting, on the other hand, that civil and political rights were not included in the mandate, they interpreted the expression "human rights" as including the right to self-determination. They urged the Commission to consider their recommendations and their preference for the term indigenous "peoples". The statement made on the subject by the Canadian delegation, which had referred to the Charter of the United Nations, whose text began with the words "We, the peoples ...", was encouraging. The permanent forum must be established with a broad mandate and sufficient resources to meet for at least 10 days every year.

46. Mr. MANCHINERY (World Wide Fund for Nature, WWF), speaking on behalf of the Coodenção das Organaçoes Indigenas da Amazonia Braziliera (COIAB), said that the concepts best able to guarantee the aboriginal rights of indigenous peoples were "indigenous peoples", "territories" and "self-determination", since they allowed for equality of rights with the rest of the population. It was to be regretted that certain States used such terms in order to deny those rights. The establishment of a permanent forum for indigenous peoples was vital; neither the latter nor WWF should "comprise experts serving in a personal capacity" as stated in paragraph 26, subparagraph 1 (c) of the report of the inter-sessional ad hoc working group (E/CN.4/2000/86). The indigenous members of the forum should be elected by their peoples and organizations. Moreover, contrary to what was stated in paragraph 36 of the Spanish version of the same document, the use of the expression "poblaciones indígenas" (indigenous peoples) in the name of the forum was not favoured by all indigenous representatives.

47. It was the hope of COIAB that the Commission, at its current session, would approve the draft declaration on the rights of indigenous peoples and recommend that the Economic and Social Council should submit the text to the General Assembly for adoption. It also hoped that the Commission would urge States to take account of the proposals of indigenous peoples regarding language and that it would recommend the creation of a permanent forum for indigenous peoples. COIAB also requested that the criteria used to select the indigenous peoples who would make up the forum should be respected. Furthermore, it supported the proposal of the Observer for Switzerland that the forum should have its headquarters in Geneva. Lastly, illustrating the conditions in which certain indigenous peoples actually lived, he described how indigenous peoples in Brazil were being killed off with impunity.

48. Mr. ARIAS GARCIA (Asociacion Kunas Unidos por Napguana), speaking also on behalf of the International Alliance of Indigenous and Tribal People of the Tropical Forests, said that it was regrettable that the Commission was still not determined to make concerted efforts to resolve the problems encountered on a daily basis by the most vulnerable, most marginalized and

poorest of all, namely, indigenous peoples. Their situation was extremely difficult, as in Colombia where they were threatened by unfair development, and also in many other countries in all continents. Worse still, many of them were disappearing from the face of the earth as a result of widespread indifference. A Special Rapporteur should therefore be appointed as a matter of urgency to make a study of the situation of indigenous peoples until such time as the permanent forum could take matters in hand. Moreover, the Office of the High Commissioner for Human Rights - with the participation of Governments, specialized agencies, NGOs and indigenous peoples - should without delay conduct an in-depth and objective appraisal of the first part of the International Decade of the World's Indigenous People because, despite the efforts of certain United Nations bodies, such as the United Nations Voluntary Fund for the International Decade of the World's Indigenous People, its declared objectives - such as the strengthening of international cooperation, the adoption of a declaration on the rights of indigenous peoples and the establishment of a permanent forum - had not been achieved. The work of drafting the declaration had become bogged down since political will was lacking on the part of Governments. Indigenous peoples were demanding that they should be recognized for what they were, namely, peoples; they did not want to be designated by an expression which limited their rights.

49. Mr. PARY (Indian Movement "Tupaj Amaro") said that, after 16 years of negotiations within the Working Group on Indigenous Populations, the drafting of the declaration on the rights of indigenous peoples was stalemated by the objections of Governments from both the North and the South. Clearly, States lacked the political will to resolve urgent problems involving the survival of indigenous peoples. The Western powers had shown themselves incapable of surmounting the fundamental differences between Governments and indigenous peoples over the basic principles and subjective interpretations of the draft's provisions, such as the right to self-determination, the exercise of the collective right to land ownership, permanent sovereignty over natural resources and the legal protection of cultural and intellectual property.

50. The right to self-determination was the central element of the draft declaration. It was an ancestral right belonging to all peoples, and not the exclusive monopoly of States. In order to dispel the fears of those States that viewed self-determination as a threat to their territorial integrity, "Tupaj Amaro" had proposed that the Working Group should add a paragraph to article 3 of the draft declaration to the effect that its provisions were not interpreted as undermining the sovereignty and independence of the national community.

51. Powerful economic and strategic interests lay behind the objections and erroneous interpretations of the provisions of the draft, since the riches of indigenous lands were vitally important to the development of the West. It would be unjust, on the threshold of the twenty-first century, as well as discriminatory, if the international community were to continue neglecting the rights of indigenous peoples. The Commission should therefore extend the mandate of the Working Group so as to enable it to complete its examination of the draft within a reasonable time.

52. As for the permanent forum, it was apparent that the proposals put forward by the indigenous peoples had not been duly taken into account in the report of the open-ended inter-sessional ad hoc working group on a permanent forum for indigenous people (E/CN.4/2000/86). The Indian Movement "Tupaj Amaro" regretted that the document it had

submitted on the mandate, competences and decision-making powers of the forum (E/CN.4/AC.47/2000/3) had not been annexed to the report, as had been decided in plenary. The permanent forum should be a consultative, operational and deliberating body with a broad mandate and sufficient powers to enable it to adopt decisions and formulate recommendations in respect not only of economic, social and cultural rights and the right to development, but also of issues such as land, health and education.

53. Regarding the composition of the forum, indigenous candidates, whether elected or appointed by their grass-roots organizations, should consider themselves as possessing an indigenous identity and possess absolute integrity, as well as demonstrated competence in indigenous affairs. The Indian Movement "Tupaj Amaro" considered that Governments and foreign organizations having nothing to do with the interests of indigenous peoples should not interfere in the nomination of candidates, who could be assessed by the Office of the High Commissioner for Human Rights and then approved by the Economic and Social Council.

54. Ms. NUR (Netherlands Organization for International Development Cooperation) drew attention to the fate of indigenous communities in Indonesia who had been suffering for 30 years as a result of Indonesian State policy. All the rights of those communities were flouted by an unjust and undemocratic policy and legislation designed to preserve State sovereignty over indigenous communities, and to transfer their resources to private corporations owned by a handful of privileged members of the political elite. Violent conflicts had ensued throughout the country. The methods used to exploit natural resources - which prioritized quick returns and showed no respect for local knowledge and traditional practices - had brought about the destruction of the means of subsistence of indigenous communities. Moreover, the latter were seeing their traditional mode of governance destroyed, with the imposition of a village system which disrupted their own decision-making structure. Finally, the presence of large mining corporations constituted a threat to indigenous women; indeed, numerous cases of sexual violence against them had been reported.

55. The Commission should urge the Government of Indonesia immediately to ratify and implement ILO Convention No. 169 concerning indigenous and tribal peoples, to assume responsibility for violations of human rights committed against indigenous communities, to compensate the communities in question and to take the necessary measures to remedy their situation.

56. Mr. BARNES (International Human Rights Association of American Minorities) said that indigenous peoples continued to stand by the current version of the draft declaration under consideration, which contained minimal norms for the recognition and protection of their fundamental rights. Henceforth, the arguments in favour of the version submitted by the indigenous peoples should be included in the reports of the Working Group. The right to self-determination, whatever the level of development, remained the underlying principle of that declaration. A special rapporteur should, moreover, be appointed to report on crisis situations and violations of indigenous peoples' rights. Finally, indigenous peoples should be able to participate effectively in the World Conference against Racism. The establishment of a permanent forum should not result in the exclusion of indigenous peoples from other

United Nations bodies which might be able to assist them in obtaining compensation, nor should it result in the abolition of the working group. Greater transparency was necessary to ensure a broader and more equitable participation of indigenous peoples.

57. Lastly, the speaker - who represented the Indigenous Peoples and Nations Coalition from Alaska - said that the indigenous peoples of Alaska, whose right to self-determination had been denied, would continue to seek its restoration.

58. Mr. HALEPOTA (Interfaith International), noting that some indigenous groups were being threatened with exclusion from the Working Group, on the pretext that there were no indigenous peoples in Africa and Asia, said that success of the group depended precisely on its willingness to protect the world's most underprivileged peoples and to restore the rights of all peoples who were victims of colonialism or neo-colonialism. He supported the recommendations of the Indigenous Caucus in respect of the permanent forum.

59. He also drew attention to the situation of the Sindhis, an indigenous community in the Indus valley and descended from one of the world's oldest civilizations, who were now under threat of extinction from terrorism, persecution, fundamentalism and population transfer. The natural resources of Sindh were being confiscated and exploited for military purposes at a time when poverty and hunger in the region were rife, and the victims were legion. Military expenditure, geared mainly to the pursuit of the nuclear arms race, accounted for 22.47 per cent of the State budget, while the amounts allocated to health and education were 0.47 and 0.14 percent respectively. Thousands of Sindhis were being chased off their ancestral lands by the army, which had imposed a state of siege. The military junta in power in Pakistan was attempting to change the region's identity and geopolitical situation by force, without the slightest regard for the opinions of the indigenous peoples. The Sindhis, who wanted to be able to decide their own future through a referendum supervised by the United Nations, were asking the United Nations to dispatch a mission to Sindh to investigate the continuing human rights violations committed in the area.

60. Mr. CHAKMA (South Asia Human Rights Documentation Centre, SAHRDC) said that if the Commission on Human Rights adopted the proposed draft resolution on the establishment of a permanent forum for indigenous peoples, the Economic and Social Council should allow at least one regional representative of the indigenous peoples of each region to take the floor at the subsequent session to present their views on the forum. The permanent forum must have a broad mandate, and indigenous peoples should be represented in it on an equal footing with Governments. It should also comprise at least 16 members and have its own secretariat, the cost of which was estimated at US$ 1.5 million; it would be shameful if States Members of the United Nations were not to come up with that sum, which would represent only partial restitution for the resources of which the indigenous people had been deprived. He welcomed the Swiss Government's offer to host the permanent forum in Geneva but wished to know whether it would be prepared to provide the necessary premises.

61. With regard to country-specific situations, SAHRDC deplored the fact that the Government of Bangladesh had done little to implement the peace accord it had signed in 1997 with Jana Samhati Samiti. Serious human rights violations were still being committed against the Jummas as a consequence of the absolute impunity enjoyed by the security forces. The

report on the inquiry into the disappearances and killings had yet to be made public. The Office of the High Commissioner for Human Rights should initiate a dialogue with the Government of Bangladesh with a view to ensuring implementation of the peace accord and providing human rights training to law enforcement officials. SAHRDC was, moreover, seriously concerned by the fact that Australia was reportedly threatening to withdraw from the International Convention on the Elimination of All Forms of Racial Discrimination. It was also surprised by the decision taken on 2 June 1999 by the Supreme Court of Nepal prohibiting the use of minority and indigenous languages for local administrative purposes - in flagrant violation of article 27 of the International Covenant on Civil and Political Rights - and hoped that the Government of Nepal would quickly remedy the situation.

62. Mr. DAHL (Inuit Circumpolar Conference) said that his organization, which was playing an active role at the international level in protecting the rights of indigenous peoples, noted that no significant progress had been made in drafting the declaration on the rights of indigenous peoples, since only two of the 45 articles of the draft had been adopted in the course of 16 years. It was thus high time that Governments should make an effort to ensure that a text acceptable to indigenous people was finalized during the International Decade of the World's Indigenous People.

63. Some progress had been made with respect to consideration of the establishment of a permanent forum for indigenous peoples within the United Nations system - another important issue. A draft resolution submitted by Denmark envisaged the establishment of such a body, which would be a subsidiary body of the Economic and Social Council made up of an equal number - at least 16 - government and indigenous representatives serving as independent experts and meeting 10 days each year. The Inuit Circumpolar Conference considered the proposal acceptable, but noted that it failed to mention the establishment of a separate secretariat which was essential.

64. Ms. LEVERGER (France Libertés: Fondation Danielle Mitterand) drew attention to the violation of the human rights of the Mapuche people of Chile, and in particular those of the Lafkenche communities of the province of Arauco. The Mapuche-Lafkenches accounted for 10 per cent of the region's population and were calling for the return of the 100,000 hectares of their land which had been seized, as well as the restoration of their ancestral right to use the coastal area. Foreign capital investment in national forestry companies had brought about the almost complete destruction of ecosystems and maritime companies were daily infringing coastal fishing regulations. By granting concessions to private foreign companies, Chile was violating Act No. 19-253, under which the State must protect lands regarded as indigenous. The Mapuche were also subjected to torture, arbitrary arrest and quasi-permanent surveillance by the civilian police intelligence services.

65. The Commission should urge the Chilean Government to put an immediate end to the repression of such communities, to take steps to return lands to the Mapuche and to establish a truth commission to promote reconciliation with the past. France Libertés urged President Ricardo Lagos's new Government to: commence negotiations without delay with all Mapuche representatives without exception; to outlaw militias acting in the interests of

transnational corporations; to ensure that the law on indigenous people was respected; to punish those responsible for torture; to initiate a process of constitutional recognition of the Mapuche people; and to ratify ILO Convention No. 169.

66. Mr. REYES (Colombia), speaking in exercise of the right to reply, expressed his delegation's surprise and indignation at the allegations of certain speakers who failed to appreciate the consultation process taking place in Colombia with various indigenous communities in implementation of the Constitution and Colombian legislation. He referred to two reports which provided details and clarification of the consultations initiated by the Colombian Government, and in particular with the Uwan communities.

REPORT OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(a) REPORT AND DRAFT DECISIONS

(b) ELECTION OF MEMBERS

(agenda item 16) (E/CN.4/2000/2-E/CN.4/Sub.2/1999/54; E/CN.4/2000/87, 88 and Add. 1 to 3, and 96; E/CN.4/2000/NGO/52; E/CN.4/2000/Sub.2/1999/17)

67. Mr. HATANO (Chairperson of the Sub-Commission on the Promotion and Protection of Human Rights), introducing the Sub-Commission's annual report (E/CN.4/2000/2-E/CN.4/Sub.2/1999/54) and his report on the work of the Sub-Commission at its fifty-first session (E/CN.4/2000/87), recalled that the name of the Sub-Commission had been changed from "Sub-Commission on Prevention of Discrimination and Protection of Minorities" to "Sub Commission on the Promotion and Protection of Human Rights", in accordance with a decision of the Economic and Social Council. In his capacity as Chairperson of the Sub-Commission's fifty-first session he had stressed three basic principles throughout the debate: punctuality, impartiality and effectiveness, and had sought to adhere strictly to them. The Sub-Commission had held 27 public meetings in which approximately 1,200 people, including some 800 NGO representatives, had participated. It had adopted 30 resolutions and 17 decisions and had approved six statements by the Chairperson. In response to a request of the Commission, the Sub-Commission had established a sessional working group to examine its methods of work; the working group had finalized the "Guidelines for the application by the Sub-Commission on the Promotion and Protection of Human Rights of the rules of procedure of the functional commissions of the Economic and Social Council and other decisions and practices relating thereto" that the Sub-Commission in its decision 1999/114 had decided to transmit to the Commission. Speaking in his personal capacity, he expressed the hope that the Commission would approve the guidelines and recommend to the Economic and Social Council that it should publish and widely disseminate the text in the form of a booklet of the Office of the High Commissioner.

68. With regard to studies, the Sub-Commission had noted the final report on the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20) and had recommended to the Commission that it should entrust new special rapporteurs with three studies devoted, respectively, to: the rights of

non-citizens; globalization and its impact on the full enjoyment of all human rights; and reservations to human rights treaties. Regarding the rationalization of its work, the Sub-Commission had not opposed certain of the Bureau's recommendations, namely: that it should serve primarily as the Commission's "think tank"; that the term of office of its members should be reduced and that they should not serve concurrently in posts in the executive branch of their Governments; that the Sub-Commission should not adopt resolutions on the human rights situation in given countries; that it should no longer deal with the 1503 procedure; and that the Working Group on Indigenous Populations should not be abolished until the permanent forum for indigenous peoples was established. On the other hand, the Sub-Commission was strongly opposed to: a reduction in its membership; the election of members being replaced by nominations by the Chairperson of the Commission; a reduction in length of its annual session; and the replacement of the Working Group on Contemporary Forms of Slavery by a new special rapporteur. In light of those reactions, the conclusions reached by the Commission's inter-sessional Working Group on enhancing the effectiveness of the mechanisms of the Commission on Human Rights seemed quite reasonable and balanced and should satisfy the Sub-Commission.

69. Lastly, the cost of the Sub-Commission's annual session had been verified and found to represent approximately one third of the cost of a Commission session, as shown in paragraph 13 of the report (E/CN.4/2000/87).

70. Mr. QAZI (Pakistan) stressed the unique nature of the Sub-Commission which, as a body of independent experts representing different cultures, civilizations and legal systems, constituted a reservoir of expertise and knowledge unparalleled in the United Nations system. Unlike the treaty monitoring bodies, the Sub-Commission was able to consider all issues relating in some way or other to human rights - which had inevitably led to some dissipation of efforts over time. Aware of the problem, the Sub-Commission had made efforts to rationalize its agenda and to reconsider its methods of work.

71. Pakistan had participated actively in the process of enhancing the effectiveness of the Commission's mechanisms and was pleased that discussion of the matter had led to the conclusion that the Sub-Commission was indispensable as the Commission's think tank and that it should continue to serve as a forum for NGOs. His delegation was convinced that the Sub-Commission could continue to be the source of important studies and instruments, such as the draft convention on the protection of all persons from enforced and involuntary disappearances, which was before the Commission. In order to enable the Sub-Commission to carry out its mandate even more efficiently, the rules of procedure elaborated for it by Mr. Hatano should be finalized and adopted at the earliest opportunity, and the Sub-Commission should continue to review its methods of work regularly. It should also further rationalize its agenda by merging or reclustering certain items and adopt stringent criteria to ensure that studies were carried out within very definite time-limits. Before drafting new instruments, it should also carefully determine: the precise nature of the instrument in question; what gap it would fill; and how much time was needed to finalize it. States members of the Commission, for their part, should endeavour to provide the Sub-Commission with the resources required once all requirements had been met.

72. Pakistan would continue to follow the work of the Sub-Commission with interest and cooperate with it, since it was convinced that the Sub-Commission would, as in the past, play an important role in the promotion and protection of human rights, as well as in the evolution of the concept of human rights.

73. Mr. REN Yisheng (China) recalled that, at its fifty-first session, the Sub-Commission had adopted resolution 1999/2 on the question of the violation of human rights and fundamental freedoms in all countries, in which it reaffirmed the norms governing contemporary international relations and the principles of international law embodied in the Charter of the United Nations. In particular, the Sub-Commission had prohibited interference in the sovereignty of a State under any pretext, as well as recourse to force on allegedly humanitarian grounds. In fact, only the Security Council had the mandate to deal with issues relating to international peace and security. The Sub-Commission had also adopted a resolution on the promotion of dialogues on human rights issues and another on the right to development - thus demonstrating that it was sensitive to the problems of developing countries.

74. His delegation was convinced that the Sub-Commission could play an important role in the field of human rights as the Commission's subsidiary body of experts. In that capacity, it should carry out studies and refrain from deliberating on human rights situations in specific countries. The recommendation of the Working Group on enhancing the effectiveness of the Commission's mechanisms, namely, that the Sub-Commission should not adopt resolutions on country situations should enable the Sub-Commission to increase its efficiency by eliminating confrontation from its deliberations in the interests of dialogue and cooperation. However, the Working Group recommended that the Sub-Commission should continue to be able to debate situations not being considered by the Commission, and to discuss urgent matters involving serious violations of human rights in any country; the Government of China therefore hoped that the Sub-Commission would demonstrate due prudence by avoiding any politicization.

75. Furthermore, his delegation approved the Working Group's recommendation that the members of the Sub-Commission should continue to be elected by the Commission, and that they should remain 26 in number. Since they were from five different continents, the experts were able to represent different cultures and values. Lastly, his delegation hoped that the Working Group's recommended reduction in the duration of the session to three weeks would enhance the effectiveness of the Sub-Commission and not adversely affect the discussion of certain issues of particular concern to developing countries such as economic, social and cultural rights, the right to development and the rights of particular groups such as women, children, minorities and indigenous peoples.

76. Mr. LITTLECHILD (International Organisation of Indigenous Resource Development), speaking also on behalf of the Grand Council of the Crees and the Napguana Association, said that it was a matter of concern that certain States wished to abolish the Working Group on Indigenous Populations, considering that it would lose its usefulness once a permanent forum for indigenous peoples was established within the United Nations system. The Working Group was in fact the only forum in which indigenous peoples could raise issues of concern to them, and nothing should prevent it from coexisting alongside the proposed permanent forum. However, experience had shown that the five days of meetings allocated to the Working Group were no longer sufficient to enable it to fulfil its mandate. Moreover, the Working Group comprised

experts serving in their individual capacities, and not one of them was indigenous. That point must be taken into account in deciding on the membership of the new forum so as to ensure equal representation of different cultures and geographic diversities. The new forum should also be allocated sufficient financial and human resources to enable it to fulfil an expanded mandate extending beyond the consideration of human rights issues, as proposed. If the Commission decided to establish the permanent forum, his organization would reserve the right to continue to press for an extended mandate so that it could deal not only with indigenous issues but also with indigenous peoples. It was also of the view that the appointment of a special rapporteur on indigenous peoples would only hinder the establishment of a permanent forum for indigenous peoples within the United Nations system.

77. Lastly, his organization was convinced that the Working Group on Indigenous Populations with its specific mandate should be maintained and not abolished in favour of the permanent forum for indigenous peoples or a special rapporteur. It would continue to contribute to efforts to establish a permanent forum for indigenous peoples that would acknowledge the value of indigenous peoples and reflect their cultural and geographic diversities.

78. Mr. SALDAMANDO (International Indian Treaty Council) urged that the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20) should be given the widest publicity and that the Sub-Commission, as well as the Commission, should implement the recommendations it contained - in particular in respect of the convening of a workshop for follow-up. Such a workshop would enable indigenous peoples and States to arrive at an agreement on the urgent and as yet unresolved issue of the non-observance of treaties entered into in good faith between indigenous peoples and States.

79. Moreover, his organization was opposed to the abolition of the Working Group on Indigenous Populations and therefore welcomed the draft resolution submitted by New Zealand which requested adequate resources and assistance for the Working Group to enable it to discharge its functions. The Commission should also allow the Working Group to meet for 10 days rather than five as at present so that it could do it work properly.

80. His organization would support all efforts to strengthen activities undertaken within the framework of the International Decade of the World's Indigenous Peoples.

81. The CHAIRPERSON invited the members of the Commission to take up agenda item 16 (b) entitled "Election of members", in connection with which the Commission had before it a note by the Secretary-General (E/CN.4/2000/88 and Add.1 to 3) containing data on all nominated candidates. Since Benin and Kazakhstan had decided to withdraw their candidates, the Secretariat had removed their names from the list of candidates nominated by the African and Eastern European States.

82. The Commission was invited to elect 13 members of the Sub-Commission - as well as their alternates, where necessary - as follows: 4 members from African States, 2 from Asian States, 2 from Eastern European States, 2 from Latin American and Caribbean States and 3 from Western European and other States. Pursuant to rule 67 of the rules of procedure of the functional commissions of the Economic and Social Council, those candidates obtaining in the

first ballot a majority of the votes cast and the largest number of votes would be elected. If the number of candidates obtaining such majority was less than the number of places to be filled, additional ballots would be held to fill the remaining places.

83. At the invitation of the Chairperson, Mr. Chowdhury (Bangladesh) and Mr. Peréz-Hernández y Torre (Spain) acted as tellers.

84. A vote was taken by secret ballot.

| | |
|---|---|
| Number of ballot papers: | 53 |
| Invalid ballots: | 0 |
| Number of valid ballots: | 53 |
| Abstentions: | 0 |
| Required majority: | 27 |

Number of votes obtained:

AFRICAN STATES

| | |
|---|---|
| Mr. Jody Kollapen (South Africa) | 16 |
| Ms. Leïla Zerrougui (Algeria) | 31 |
| Mr. Mounir Zahran (Egypt) | 24 |
| Mr. Fisseha Yimer (Ethiopia) | 29 |
| Mr. Georges Razanakoto | |
| *Ms. Arlette Ramaroson (Madagascar) | 12 |
| Ms. Halima Embarek Warzazi (Morocco) | 31 |
| Mr. Godfrey Bayour Preware | |
| *Ms. Christy Ezim Mbonu (Nigeria) | 24 |
| Mr. Ahmed M.O. El Mutfi (Sudan) | 11 |
| Mr. Lazhar Bououny | |
| *Ms. Hamida M'Rabet Labidi (Tunisia) | 26 |

85. Having obtained the required majority and the largest number of votes, Ms. Zerrougui (Algeria), Ms. Warzazi (Morocco) and Mr. Yimer (Ethiopia) were elected members of the Sub-Commission for a term of office of four years.

ASIAN STATES

Mr. Yozo Yokota

*Ms. Yoshiko Terao (Japan) 47

Mr. Sami A. Bekdash (Lebanon) 6

Mr. Kapil Shrestha (Nepal) 7

Mr. Soo Gil Park

*Ms. Chin Sung Chung (Republic of Korea) 43

86. Having obtained the required majority and the largest number of votes, Mr. Yokota (Japan) and Mr. Park (Republic of Korea) were elected members of the Sub-Commission for a term of office of four years.

EASTERN EUROPEAN STATES

Mr. Yuri Barsegov

*Mr. Ashot Melik-Shahnazarian (Armenia) 19

Mr. Rovshan Mustafayev

*Mr. Tofig Musayev (Azerbaidjan) 14

Mr. Stanislav Ogurtsov (Belarus) 32

Ms. Iulia Antoanella Motoc

*Ms. Victoria Sandru (Romania) 36

87. Having obtained the required majority and the largest number of votes, Ms. Motoc (Romania) and Mr. Ogurtsov (Belarus) were elected members of the Sub-Commission for a term of office of four years.

LATIN AMERICAN AND CARIBBEAN STATES

Mr. Miguel J. Alfonso Martínez

*Mr. Juan Antonio Fernández Palacios (Cuba) 38

Ms. Soledad Villagra (Paraguay) 27

Mr. Manuel Rodríguez-Cuadros (Peru) 34

88. Having obtained the required majority and the largest number of votes, Mr. Alfonso Martínez (Cuba) and Mr. Rodríguez-Cuadros (Peru) were elected members of the Sub-Commission for a term office of four years.

WESTERN EUROPEAN AND OTHER STATES

Mr. David Weissbrodt

*Ms. Barbara Frey (United States of America) 37

Mr. Asbjørn Eide

*Mr. Jan Helgesen (Norway) 42

Mr. Fried Van Hoof

*Ms. Lammy Betten (Netherlands) 43

Mr. Gündüz Aktan

*Mr. Bülent Meric (Turkey) 25

89. Having obtained the required majority and the largest number of votes, Mr. Van Hoof (Netherlands), Mr. Eide (Norway) and Mr. Weissbrodt (United States) were elected members of the Sub-Commission for a term of office of four years.

90. The CHAIRPERSON said that, as the number of candidates who had obtained the required majority from African States was less than the number of places to be filled, a new ballot would be held to fill the remaining vacancy.

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

(b) HUMAN RIGHTS DEFENDERS

(c) INFORMATION AND EDUCATION

(d) SCIENCE AND ENVIRONMENT

(agenda item 17) (E/CN.4/2000/89-97 and Add.1, 121 and 145; E/CN.4/2000/NGO/7, 17, 23, 97, 107, 110, 121, 130-132, 134, 135 and 144; E/CN.4/1999/12 and Add.1; E/CN.4/Sub.2/1999/28 and Corr.1; E/CN.4/1998/84 and Add.1; E/CN.4/1997/105)

91. Mr. KOBAYASHI (Japan) said that, rather than criticizing or isolating countries which did not fully respect human rights, they should be encouraged to move forward, providing they had shown a willingness to change. It was primarily on States that the responsibility for promoting and protecting human rights and fundamental freedoms lay, and to assist them in that task the United Nations had drawn up various international human rights instruments. In June 1999, Japan had acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; it was now a party to the six main instruments and urged all Governments that had not already done so to ratify or accede to them as well. His Government also stressed the importance of implementing those instruments, and was determined to continue to perform its obligations under them.

92. His delegation also wished to reiterate the importance of the role played by intergovernmental and non-governmental organizations in the promotion and protection of human rights. Even after the adoption of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, it was clear that human rights defenders were still being threatened and intimidated, if not killed. His delegation therefore fully supported the draft resolution to be submitted by the Norwegian delegation on that matter, which requested that the Secretary-General appoint a special representative on human rights defenders.

93. With regard to the death penalty - which would be the subject of a draft resolution by the European Union - the Japanese delegation considered that each State should carefully examine the question of whether it should be maintained or abolished in the light of the national crime rate and penal system. He recalled that the European Union had withdrawn a similar draft resolution at the fifty-fourth session of the General Assembly in 1999 owing to the lack of international consensus on the matter.

94. He stressed the important role played by human rights education in the promotion and protection of human rights and in the creation of a human rights culture. Such had been the conclusion reached by the inter-sessional workshop on national plans of action for human rights education in the Asia and Pacific region organized by the Office of the High Commissioner for Human Rights and hosted by Japan.

95. Mr. MENDONÇA E MOURA (Portugal), speaking on agenda item 17 (b) on behalf of the countries of the European Union and the associated countries of Central and Eastern Europe - Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia - as well as Cyprus, Malta and Turkey, paid tribute to all those throughout the world who devoted themselves to the defence and promotion of human rights, whether as individuals or as members of NGOs. At the local level, they kept the public informed of the rights and freedoms enshrined in international instruments and communicated the aspirations of civil society to Governments. The European Union was grateful to all those courageous

individuals, whoever they might be, who campaigned for universal rights, often risking their lives in the process. The European Union urged them to continue their efforts to promote human rights with the same determination, thus contributing to the elimination of human rights violations.

96. Human rights defenders denounced situations that many States preferred to hide; they sought compensation for victims of violations and fought against impunity. For that very reason, they were often subject to reprisals on the part of States not fulfilling their obligation to promote and protect human rights and fundamental freedoms. If the role of human rights defenders was to denounce violations, the task of the international community must be to ensure that their voices were heard and their rights respected. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms - adopted by the General Assembly in 1998 - had served to provide recognition for the work of human rights defenders, whether they were anonymous individuals or well-known organizations. The Declaration did not create special rights, but rather reaffirmed that the rights of those who defended the rights of others should also be respected and protected. The question now was one of ensuring its effective implementation, and the European Union was of the view that the Commission on Human Rights should create a special mechanism for that purpose. Such a mechanism would be entrusted with collecting information on violations of the right of human rights defenders to promote and protect human rights, and with formulating an appropriate response. It would also examine measures or practices that hampered the activities of human rights defenders, and should be able to recommend the provision of technical assistance by the Office of the High Commissioner. The latter had an important role to play in the implementation and dissemination of the Declaration, but a special rapporteur or representative would need the support not only of the Office of the High Commissioner, but of all States as well.

97. Most advances in the field of human rights were due to the activities of human rights defenders. It was thus crucial to realize, respect and promote the rights and freedoms enshrined in the Declaration in all countries, since any attempt to hamper the activities of human rights defenders amounted to a denial of the universality and indivisibility of those rights.

98. Mr. SEYDOU (Niger) said that the new Constitution adopted in Niger following a referendum held on 10 July 1999 incorporated the rights and freedoms enshrined in the various international instruments ratified by his country. Upon assuming their functions, the new President of the Republic, elected in November 1999, together with his Prime Minister, had undertaken to respect and protect the human rights and freedoms of citizens. With freedom of thought and speech freely exercised in Niger, human rights organizations were multiplying and thriving. The Government of Niger fully associated itself with article 1 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, according to which "everyone [had] the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms". To that end, human rights defenders must have the necessary resources at their disposal. The Government of Niger thus welcomed the activities undertaken by the Office of the High Commissioner for Human Rights in the fields of human rights education, information and training. It hoped that concerted efforts would be made in that regard in Niger to promote the consolidation of

democracy. However, democracy was not possible in a context of unrest, and his delegation therefore welcomed the adoption by the General Assembly in its resolution 53/243 of the Declaration and Programme of Action on a culture of peace. It was in that spirit that Niger had - for the fifth year running - celebrated National Harmony Day on 14 April.

99. Despite its willingness to promote and protect human rights at all levels, the Government of Niger was forced to contend with enormous economic and financial difficulties which hampered its work. The financing by the World Bank of the construction of four new penitentiaries would enable the problem of prison overcrowding to be resolved. The Penal Code and Code of Criminal Procedure had, moreover, been revised. The new Penal Code provided, inter alia for the punishment of genocide, crimes against humanity and war crimes - pending Niger's ratification of the Statute of the International Criminal Court - as well as severe penalties for persons guilty of sexual harassment. Moreover, due process of law had been strengthened and pre-trial detention was no longer unlimited. As for the death penalty, it had been abolished de facto and de jure in Niger, given that it had not been imposed by the courts or applied for a good many years.

100. Mr. AVILA (Mexico) said that Mexico had worked actively for the adoption by the General Assembly of the Declaration on Human Rights Defenders and was doing its utmost to ensure its implementation. It therefore welcomed with interest Norway's proposal that the Commission should establish a mechanism for that purpose.

101. In 1989, an office had been set up within the secretariat of the Ministry of the Interior to deal with complaints from human rights defenders and journalists who had received threats and requested protection. The National Human Rights Commission, too, dealt with such matters. At the same time, the Government facilitated the work of all who wished to observe the human rights situation in Mexico. More than 5,000 foreign representatives of NGOs, the media and other bodies had visited Chiapas since the beginning of the conflict there. Moreover, national and, for the first time, international observers would be monitoring the presidential elections to be held in July 2000.

102. He noted that the death penalty was the very negation of the most basic human right, the right to life, and the Mexican Government would continue its efforts to bring about its abolition. He urged those States that had not yet abolished it not to impose it on minors, pregnant women or disabled persons and not to extradite anyone to countries where they risked being sentenced to death. The Office of the High Commissioner should launch another international campaign for the abolition of what was a repugnant practice.

103. Noting with concern the tendency of some countries to sentence foreign nationals to death in disregard of their rights under article 36 of the Vienna Convention on Consular Relations, Mexico welcomed the advisory opinion handed down by the Inter-American Court of Human Rights reaffirming the validity of the principle that any person who was arrested should be informed of their rights and was entitled to notify the authorities of their country that they had been detained and to receive the services of a lawyer, and emphasizing the obligation to respect that right. The advisory opinion was an important contribution to international case law in that

area and to the protection of the human rights of foreigners detained in other countries. His delegation would again co-sponsor the draft resolution on capital punishment submitted by the European Union.

104. Mr. GOLEDZINOWSKI (Observer for Australia) welcomed Norway's initiative on behalf of human rights defenders and hoped that the Commission would adopt the resolution so that they would be able to work in complete safety anywhere in the world.

105. His delegation noted that the concept of good governance, which had emerged in recent years and was in a way related to globalization and poverty, had been mentioned for the first time in the Commission, notably by the Secretary-General in his statement. Australia and four other countries - Chile, Poland, the Republic of Korea and South Africa - had therefore decided to submit a resolution on the subject, emphasizing several basic principles. The first was that the quality of governance did indeed affect the enjoyment of human rights and that it was therefore appropriate for the Commission to concern itself with the subject. The second was that the reinforcement of good governance was a continuous process for all Governments. The third was that there were no internationally recognized criteria of good governance; it was up to States themselves to formulate them in the light of their own priorities and goals. The fourth was that the quality of the international environment influenced the results obtained by Governments in the area of human rights but that the State's role at the national level was equally important. The fifth and most important principle was that cooperation, assistance - where necessary - and exchanges of experiences on the subject were the best means of promoting better governance in all countries.

106. His delegation believed that the Commission could and should embark upon an enlightening discussion of the matter on the basis of those principles and take the necessary decisions, as it had done in the case of human rights defenders.

107. Ms. KUCURADI (Observer for Turkey) said that there was a widespread notion that the aim of human rights was to protect the individual against the State and that the purpose of human rights education was to teach individuals their rights so that they could defend them if necessary. The resulting approach to human rights education was based on international and national human rights legislation and lacked any ethical dimension. Yet human rights education should aim not only to promote an understanding of individual rights but above all to inculcate in people a sincere will to protect human rights per se and provide everyone with sufficient knowledge to be able to decide how to deal with real life situations, in order to prevent human rights violations.

108. Turkey's National Committee for the United Nations Decade for Human Rights Education, established in 1998 and comprising representatives from several ministries and human rights NGOs, and prominent persons known for their work in that field, had therefore drawn up a Human Rights Education Programme for Turkey, in implementation of the Plan of Action for the United Nations Decade for Human Rights Education. The target groups were teachers giving courses on human rights, law enforcement officers, the media, members of human rights NGOs, social workers and the staff of community centres in economically and socially deprived urban areas.

109. Under that programme, the Committee had suggested that the training provided in Turkey's 26 police schools should be extended from nine months to two years and that the training programme should consist of three main parts, dealing with ethical and professional aspects and with the application of human rights in specific situations. The relevant bill had been approved by the Council of Ministers and submitted to the National Assembly. It had also been suggested that the Government should establish a prison staff training centre, and the Ministry of Justice was currently preparing a two-year pre-service training programme for prison guards, incorporating training in humanist and ethical principles.

110. The Committee had also asked a working group of scientists to revise all primary and secondary school social and human sciences textbooks from the standpoint of human rights; to revise the in-service training programme for human rights teachers in primary and secondary schools; to draw up a framework for a 10-year programme for street children; to revise the teaching material used in human rights courses for the gendarmerie; to develop a training programme for NGO trainers wishing to provide human rights education; and to organize a series of seminars for members of the Journalists' Association of Turkey.

111. The Committee hoped that the programme would make it possible, in the not too distant future, to solve a considerable number of the human rights problems facing Turkey.

112. Mr. SEE Chak Mun (Observer for Singapore) said that the European Union's draft resolution on the death penalty called on States as it did every year not to execute any person as long as any related legal procedures at the international or national level were pending, not to allow the extradition of any person to a country in which he or she risked being sentenced to death and to establish a moratorium on executions with a view to completely abolishing the death penalty. His delegation opposed the draft because it could seriously prejudice the authority of national jurisdictions to carry out punishment in accordance with domestic law. The draft resolution sought to bring unwarranted pressure to bear on States that retained the death penalty.

113. Capital punishment was a matter of criminal justice, not human rights, since the issues were victims' rights and the right of the community to live in peace and security. States must be free to implement the policies and criminal measures necessary to protect the rights of victims and deter crime, and to decide for themselves whether to retain or abolish the death penalty, taking into account the values of its people, the crime situation and crime policy. States also had the right to impose the death penalty for the most serious crimes, as long as they respected the appropriate judicial safeguards - a right that was explicitly recognized in article 6, paragraph 2 of the International Covenant on Civil and Political Rights. Lastly, a moratorium on capital punishment would deprive States of an important criminal justice tool to deter the most serious crimes, and of their right to decide the most effective means of dealing with such crimes.

114. He recalled that, at the fifty-fourth session of the General Assembly in the face of opposition from a large number of delegations, the European Union had withdrawn a similar draft resolution. There was therefore no reason to raise the same issue in the Commission on Human Rights, which was merely a subsidiary body with only 53 members. There was no international consensus on the abolition of the death penalty and his delegation questioned the European Union's insistence on tabling the same draft resolution year after year, particularly at a

time when the Commission was trying to rationalize its work and mandate. The issue was clearly one that fell within the purview of each State, which had the right to protect its citizens against crime and ensure law and order.

115. It was not for one group of countries to impose its own values and judicial systems on others that were subject to the rule of law and where the death penalty was retained by the will of the people. His delegation therefore urged the members of the Commission not to support the European Union's draft resolution.

116. Ms. PEJIC (International Committee of the Red Cross) said that the issue of fundamental standards of humanity had been on the international agenda for several years because there was a perception that existing standards of international humanitarian law on human rights did not give adequate protection to persons caught in the "grey zone" - between peacetime and situations of armed conflict. ICRC believed that the numerous violations and abuses perpetrated during armed conflicts were not due chiefly to the lack of legal standards but to the failure of State and non-State actors to comply with the principles and rules of international humanitarian and human rights law. The Commission should therefore look into the causes of non-compliance and ways of strengthening implementation of the existing law instead of elaborating new standards.

117. ICRC's preference was based on several developments: the establishment and work of the two international criminal tribunals, whose case law had been important in setting standards for the behaviour of State and non-State actors; the adoption in 1998 of the Rome Statute of the International Criminal Court, which defined genocide, war crimes and crimes against humanity as serious crimes of concern to the international community as a whole and reaffirmed the principle of individual criminal responsibility; the Human Rights Committee's current work on the drafting of a General Comment to article 4 of the International Covenant on Civil and Political Rights, which should shed light on the issue of non-derogable rights and provide an authoritative interpretation of States' obligations in times of emergency; the emerging application by States of the principle of universal jurisdiction, which was provided for both in treaty and in international customary law, to several categories of grave breaches of the 1949 Geneva Conventions. Lastly, it was based on ICRC's own study of the customary rules of law that were binding on the parties to internal armed conflicts, which would, when it was published in 2001, aid the examination of fundamental standards of humanity and contribute to the enhanced legal protection of persons affected by internal armed conflict.

118. ICRC believed that any further work on fundamental standards of humanity should be seen as a process aimed at reaffirming existing international humanitarian and human rights norms, with a view to facilitating their dissemination and implementation. Meanwhile, ICRC called on Governments to take all feasible steps to strengthen the protection of persons both in peacetime and in situations of armed conflict by ratifying the relevant international treaties and ensuring their full implementation. In particular, it urged States to abide by their obligations under the Geneva Conventions and their two Additional Protocols, to make war crimes offences under domestic law and to provide for universal jurisdiction over acts constituting war crimes. Lastly, ICRC urged States to ratify the Rome Statute of the International Criminal Court, thereby providing the international community with a mechanism for punishing and deterring war crimes, as well as other crimes under international law.

119. Ms. CASSAM (United Nations Educational, Scientific and Cultural Organization) said that UNESCO had a particular duty, as a specialized agency of the United Nations, to motivate creators, thinkers, scientists and teachers to build the defences of peace in the minds of men, respect the universal humanist values defined in the Universal Declaration of Human Rights and become the intellectual and moral conscience of mankind.

120. It was in that context that UNESCO had prepared its "Culture of Peace" project, based, inter alia, on the principles established in the Charter of the United Nations and on respect for human rights. The defence and protection of human rights was one of the pillars of the promotion of a culture of peace. In January 1998, the United Nations General Assembly had proclaimed the year 2000 International Year for the Culture of Peace and had appointed UNESCO as the focal point for the system-wide coordination of events contributing to a movement away from the resolution of conflicts by violence towards more modern approaches and mechanisms for achieving lasting peace by calling for the active participation of all the citizens of the planet.

121. In specific terms, UNESCO's Communication, Information and Informatics Sector was helping to restore the media in East Timor. To that end, in cooperation with the United Nations Transitional Administration in East Timor (UNTAET) and the South-East Asian Press Alliance (SEAPA), UNESCO had invited international donors to help fund a plan of action to build up free and pluralistic media, and was working to reinforce radio networks, publish independent East Timor's first newspaper, establish a legal framework for the media and train local journalists. It had also joined forces with the World Association of Newspapers to create an independent press.

122. As part of its "Disarming History" project, UNESCO was planning to publish, in cooperation with its educational partners in each region, guidelines to help with textbook revision and teacher training in the field of history teaching. The aim of the project was to ensure that, instead of glorifying war, history books explained why wars had taken place and how they could be eliminated forever, through understanding, cooperation, solidarity and integration. Meetings and workshops had been held in Colombia (for the Andean countries), Poland (on the changing situation in Eastern and Central European countries), Mali (on the history of Africa) and Sweden (on South-East European integration). The project should help to envisage and build a more peaceful future, at least for coming generations.

123. The Commission's special meeting on Chechnya had shown that it, too, could speak as the "moral conscience of mankind".

124. Ms. THOMPSON (International Service for Human Rights), speaking also on behalf of 13 other organizations (Baha'i International Community, Colombian Commission of Jurists, Franciscans International, Friends World Committee for Consultation, Inter-African Committee, International Commission of Jurists, International Confederation of Free Trade Unions, International League for Human Rights, International Movement for Fraternal Union among Races and Peoples, Lutheran World Federation, World Young Women's Christian Association, Human Rights Internet, International Federation of Action of Christians for the Abolition of Torture), called on the members of the Commission to establish a post of special rapporteur on human rights defenders. A special procedure was urgently required because human rights

defenders in all regions of the world, were suffering both brutal and subtle forms of repression as a result of their work to promote and protect universally recognized human rights. There was no United Nations human rights mechanism to monitor the violations of which they were victims or that they could appeal to for assistance.

125. The Commission's previous appeals that existing mechanisms should deal with the situation of human rights defenders had not solved the problem. Furthermore, in response to Commission resolution 1999/6, the special rapporteurs and representatives and the experts and chairpersons of working groups of the special procedures had stated that the nature of the problem was not one that could be covered satisfactorily by them alone in the discharge of their specific mandates.

126. NGOs, existing mechanisms and some States had argued for several years that the new mechanism was required to study the problems and encourage cooperation activities with Governments, especially in improving the implementation of the Declaration on Human Rights Defenders. That would also enhance the ability of the United Nations to act effectively and expeditiously in that regard. The Declaration, adopted in December 1998 by the General Assembly, covered all the rights necessary for individuals, groups and associations to promote respect for, and foster knowledge of, human rights and fundamental freedoms at the national and international levels, but no mechanism had been established to promote and monitor its universal implementation.

127. It was therefore essential for the Commission to appoint a special rapporteur on human rights defenders, to propose ways of improving the implementation of the Declaration, examine the measures and practices that enhanced or impeded the work of human rights defenders and devise methods better to protect the rights of human rights defenders. Such a mechanism would be vital in upholding some of the fundamental purposes and principles of the United Nations in the promotion of peace, security, development, international law and human rights.

The meeting rose at 7.05 p.m.